

15th August 2008

Secretary
Parliamentary Joint Committee on Corporations & Financial Services
PO Box 6100 Parliament House
Canberra. ACT. 2600



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Dear Sir/Madam,

Re: Inquiry into Franchising Code of Conduct.

The Retail Traders' Association of Western Australia (RTAWA) is the oldest and is the broadest and largest representative association of retailers in Western Australia. The RTAWA has been in existence for some 85 years at this time.

In response to your inquiry we would like to raise the following issues with you.

We are aware that at present the Franchise Industry has in place the Franchising Code of Conduct under the administration of the ACCC, which is currently under review, to cover the industry within Australia. The RTAWA is supportive of this means of industry self regulation and would not wish this practice to be discontinued, however, we do feel that there are certain aspects of this Code that need to be furthered or strengthened.

a) Non-renewal of Franchise Agreement

Whilst not normally a matter for serious concern, a recent situation here in WA has shown that there exists a serious 'loop-hole' within the current Franchising Code of Conduct as well as the Trade Practices Act and the respective State and Territory Fair Trading Acts.

We consider that this void has been seriously exploited by an international franchise group in a bid to squeeze out its fast food franchisee in Western Australian and Northern Territory. We have now witnessed that a franchisor can take advantage of the lack of regulation of renewal rights under the existing law and inflict substantial damage upon a franchisee and its workforce. We can provide further detail of the case referred to should you require.

The problem is well recognised and known as that of 'franchisor opportunism'. Here, the franchisor by not renewing the franchise agreement, forces the franchisee out of business, purely and simply to set up its own business at the same location and thus profit exclusively from the goodwill built up by the former franchisee without having to pay anything for it. Even with this threat in hand, the franchisor can exploit the franchisee in the acquisition of the franchisee's business or assets at significantly below market value.

One aspect of 'franchisor opportunism', namely early termination of the franchise agreement is currently dealt with by legislation and the common law i.e. the franchisee can sue for breach of the Franchising Code of Conduct, or for breach of the implied contractual duty to act reasonably and in good faith, or for breach of the unconscionability provisions of the Trade Practices Act.

However, the law does not deal with this now apparent aspect of 'franchisor opportunism' in the failure to renew a franchise agreement when it expires:

- The Franchising Code of Conduct (which is enforceable under Section 51AD of the Trade Practices Act) contains no provisions in relation to non-renewal.



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- Contract law does not require a party to renew a contract in the absence of any agreement or option to renew.
- The High Court held in 2003 that the unconscionability provisions of the Trade Practices Act do not apply to conduct relating to an expired agreement (ACCC v Berbatis).

The solution, we believe, is to incorporate a ‘good faith’ obligation to the renewal of franchise agreements, which would create a ‘level playing field’ for all participants. Our understanding of the franchise industry suggests that this proposition would cause minimum disruption to existing practice within the industry, whilst protecting franchisees from unscrupulous conduct by franchisors who attempt to take advantage of the current regulatory void to benefit themselves at the expense of franchisees

The fairest and most practical way to address the non-renewal issue is by an amendment to the Franchising Code of Conduct. This could be done by inserting a new clause in Part 3 of the Franchising Code, which contains the following elements:

- (i) Obligation upon a franchisor to renew a franchise agreement (or provide compensation in lieu) unless the franchisor had a good faith reason to justify non-renewal.**
- (ii) Appropriate time limits for notification of the franchisor’s decision about renewal/non-renewal prior to expiry of the agreement, together with the provision of reasons to the franchisee in the event of non-renewal.**
- (iii) An ability for the franchisee to enforce its right to renewal (or compensation in lieu), with the onus being placed on the franchisor to justify its good faith reason for deciding not to renew the agreement.**

Similar circumstances arose in Australia with the petrol station franchises back in the 1960-70’s. Commonwealth legislation to resolve this problem is a clear precedent here. The Petroleum Retail Franchise Marketing Act 1980, and Section 17(1), (6) – (12) in particular, (see Appendix 1, attached) is now encapsulated in Clause 32(6)-(9) of the Oil Code Regulations of 2006, and enacted to stop ‘franchisor opportunism’ with petrol station franchises.

Ample legislation of this type exists in the USA where a number of States have enacted provisions that prevent a franchisor from failing to renew a franchise agreement ‘except for good cause’, (see Appendix 2, attached).

The alternative suggestion to amending the Franchising Code of Conduct as suggested above is for the Commonwealth to amend the Trade Practices Act or, in this instance Western Australia to amend the Fair Trading Act 1987.

b) Length or term of franchise

Yet another form of ‘franchisor opportunism’ exists with the apparent and continuing practice of unreasonably shortening the term of franchise agreements. We now see such agreements rapidly approaching the 5 year term, which not only gives the franchisor any direct benefits of the franchisee’s goodwill, but also with the rising costs of fit-out, gives insufficient time for the franchisee to fully depreciate his capital investment.

We submit that the Franchising Code should include terms that not only defend the franchisee from ‘franchisor opportunism’ as above, but also provide the franchisee with ample time to amortise his investment in the franchise arrangement. We suggest that this matter could best be



incorporated within the Franchising Code by including provisions that require the franchisor to clearly demonstrate to the franchisee, in documented format, that the term of the franchise agreement is sufficient to give an adequate return on capital thus meeting the normal accounting amortisation standards.

c) Dispute Resolution

Although the review of the Franchising Code of Conduct has elaborated a mechanism of mediation for this purpose, we believe that further process, in the form of a 'low cost' arbitration system, should be also imposed, so that the process of court proceedings and their associated costs can be avoided where ever possible. The availability of such proceedings has been well proven elsewhere to be not only effective, but also to create a 'level playing field' between the smaller franchisee and the often larger, more powerfully positioned franchisor.

We believe that this area should be furthered to include a 'low cost' arbitration system that can follow mediation if necessary, similar to, if not the same tribunal, as that utilised for retail lease disputes.

d) Franchisor Disclosure Statement

The Franchising Code of Conduct sets out those areas that must be disclosed to the franchisee. It however, does not require the Franchisor to state clearly what services, there quality and quantity, the Franchisor is to provide to the franchisee. We so often see situations where the services and thence, the standard of services given by Franchisors is inadequate, inept, or non-existent. We submit that the original and priority purpose, or focus, of franchising has dissipated to a monetary generating machine for purely selling franchises as opposed to propagating an efficient business structure that produces real value for the franchisee and the franchisor into the future.

Franchisors all too often are only there for the sale of the franchise, not to supply personnel to adequately support the franchisee. Hence, the franchisor puts in place personnel only for the supervision of franchisees to make certain that the franchisee meets their obligations under the franchise agreement.

On the other hand, there is no simple, or low cost means, for the franchisee to force the franchisor to meet his obligations (see recommendation (c) above). Consequently, services that should be delivered by the franchisor are often neglected; because of distance delivered infrequently; or, delivered by personnel who are not accredited in the field of expertise required.

We believe that Franchisor Services should be an essential part of the disclosure document and therefore incorporated as such within the Franchising Code.

Yours faithfully,



Wayne Spencer
Executive Director



PETROLEUM RETAIL MARKETING FRANCHISE ACT 1980**Section 17: Renewal of Franchise Agreements**

17. (1) Subject to this section, a franchisor shall not fail or refuse to renew the franchise agreement except on one or more of the following grounds:
- (a) the existence of circumstances, or the occurrence of an event, of a kind referred to in any of paragraphs 16 (2) (a) to (k) (inclusive);
 - (b) the franchisor proposes, in good faith and in the normal course of business, to vary a provision of the agreement (other than a provision fixing an amount, or the manner of calculating or determining an amount, payable by the franchisee) and the franchisee does not consent to the variation;
 - (c) in the case of a franchise agreement containing provisions of the kind referred to in paragraph (b) of the definition of "franchise agreement" in sub-section 3 (1), the franchisor has, in good faith and in the normal course of business-
 - (i) entered into an agreement, or negotiations for an agreement, to grant a lease of the marketing premises to a person other than an associate of the franchisor for a use other than the retail sale of motor fuel; or
 - (ii) entered into an agreement, or negotiations for an agreement, (other than an agreement containing a provision having the effect of prohibiting the use of the marketing premises for the retail sale of motor fuel) to sell its interest in the marketing premises to a person other than an associate of the franchisor.
- (2) A franchisor shall not enter into an agreement to sell its interest in the marketing premises to a person other than the franchisee unless-
- (a) before entering into the agreement, the franchisor has offered the interest for sale to the franchisee on terms that were no less favourable to the franchisee than the terms of the agreement with that person; or
 - (b) the agreement was entered into in the following manner, namely, the franchisor offered the interest for sale at a public auction of which at least 30 day's notice in writing was served on the franchisee, and the franchisor-
 - (i) sold the interest at the auction to a person other than an associate of the franchisor; or

(ii) sold the interest by private treaty after the auction, to the person (not being an associate of the franchisor) who made the highest bid at the auction, for a price not lower than the amount of that bid and on other terms substantially the same as the terms on which the interest was so offered.

(3) Where the franchisor has entered into an agreement to sell its interest in the marketing premises as described in paragraph (1) (c), the franchisor shall not, before the transfer of the premises in pursuance of the agreement, render unfit for use any fixture on the premises at the expiration of the franchise agreement and not subsequently removed by the franchisor.

(4) Where, before the expiration of a franchise agreement, the franchisor has, in the manner described in paragraph (1) (c), entered into negotiations for an agreement of a kind referred to in that paragraph, the franchisor may, in lieu of renewing the franchise agreement, extend the term of the franchise agreement until-

(a) an agreement of that kind is entered into; or

(b) the expiration of the period of 6 months commencing on the date on which, but for this sub-section, the franchise agreement would expire, whichever first occurs, or until such earlier time as is agreed upon between the franchisee and the franchisor.

(5) If, at the expiration of the period referred to in paragraph (4) (b), no agreement of a kind referred to in paragraph (1) (c) has been entered into, paragraph (1) (c) ceases to be a ground for failure or refusal to renew the franchise agreement.

(6) For the purposes of sub-section (1), a franchisor shall not be taken to have failed or refused to renew the franchise agreement if the agreement is not renewed by reason only of a stipulation by the franchisor that an amount payable by the franchisee under the franchise agreement as proposed to be renewed (other than an amount payable in respect of motor fuel or other stock in trade) is to exceed, or is to be calculated in such a manner as to exceed, the corresponding amount payable under the existing agreement, where the amount of the excess is reasonable, having regard to the market value, at the time when the agreement is proposed to be renewed, of the interest, goods or services in respect of which the amount is payable.

(7) Notwithstanding anything in the preceding provisions of this section, where-

(a) a franchisor, by notice in writing served on the franchisee not later than 30 days before the expiration of the franchise agreement, offers to renew the agreement; and

(b) after that notice is served, the franchisee fails to serve on the franchisor before-

(i) if that notice is served earlier than 120 days before the expiration of the agreement-the ninetieth day before the expiration of the agreement; or

(ii) in any other case-the expiration of 30 days after receipt of the notice by the franchisee, notice in writing accepting the offer of renewal, the franchisor is not required to renew the agreement.

(8) If a franchisor decides not to renew the franchise agreement, it shall serve on the franchisee, not later than 30 days before the expiration of the agreement, notice in writing of its decision, setting out full particulars of the ground or grounds, including a statement of the facts relating to each ground, upon which the decision is based.

(9) If notice is served on a franchisee under sub-section (8) after the commencement of the period of 90 days before the expiration of the franchise agreement, the term of the agreement shall be deemed to be extended so that it expires at the end of the ninetieth day after receipt of the notice by the franchisee.

(10) Subject to this section, a court shall, on the application of a franchisee, make an order directing the franchisor to renew the franchise agreement unless-

(a) the franchisor has served on the franchisee a notice in accordance with sub-section (8);

(b) a ground specified in the notice is established by the franchisor to the satisfaction of the court; and

(c) except where a ground so established is a ground referred to in paragraph (1) (c), the court is satisfied that it is just and equitable, having regard to all the circumstances, for the agreement and any related agreement or agreements not to be renewed.

(11) Without limiting the generality of paragraph (10) (c), the circumstances referred to in that paragraph include the conduct of the franchisor and the franchisee after the time when the franchisor became aware of the existence of the circumstances, or the occurrence of the event, constituting a ground referred to in paragraph (10) (b) (not being a ground referred to in paragraph (1) (c)).

(12) Where the court makes an order under sub-section (10), it may make-

(a) orders determining any amount, or the manner of calculating any amount, to be payable by the franchisee under the franchise agreement as to be renewed;

(b) orders determining any other provisions of the agreement as to be renewed; and

(c) such ancillary or consequential orders as it thinks fit, including orders directing the preparation and execution of documents.

(13) For the purposes of this section, a franchisor shall not be taken to have failed or refused to renew a franchise agreement by reason only that, in relation to the agreement s renewed, there is substituted for that franchisor a different franchisor, if-

(a) that different franchisor is a corporation related to the first-mentioned franchisor; and

(b) the first-mentioned franchisor has agreed to indemnify the franchisee in respect of any loss or damage resulting from any breach by that different franchisor of its obligations under the franchise agreement as renewed or under this Act.

(14) For the purposes of this section, a franchisor shall not be taken to fail to renew the franchise agreement if the agreement was not renewed with the consent in writing of the franchisee given at any time after the commencement, and before the expiration, of the agreement, being a time, in the case of an agreement in effect immediately before the date of commencement of this Act-

(a) on or after that date; or

(b) where the franchisor has, before that date, in good faith and in the normal course of business, entered into an agreement to grant or dispose of an interest in, or to grant a licence in relation to, the marketing premises-before that date.

(15) Where-

(a) a franchise agreement has, whether before or after the commencement of this Act, been entered into otherwise than by way of renewal;

(b) this section has applied in relation to a renewal, or 2 or more consecutive renewals, of the franchise agreement; and

(c) the term of the renewal or the terms of the renewals, together with-

(i) if the franchise agreement was entered into before the commencement of this Act-so much (if any) of the term of that agreement as occurred after the commencement of this Act; or

(ii) in any other case-the term of the franchise agreement, amount in the aggregate to not less than 9 years, this section does not require the franchisor to renew the franchise agreement but, if the franchisor renews the franchise agreement, this section has effect as if that renewal were a franchise agreement entered into otherwise than by way of renewal.

(16) This section does not apply in relation to a franchise agreement the term of which is 9 years or more.

UNITED STATES LEGISLATION

Jurisdiction	Legislation Name	Provision	Comments
Arkansas	Arkansas Franchise Practices Act (1977)	"It shall be a violation of this subchapter for a franchisor to fail to renew a franchise except for good cause or except in accordance with the current policies, practices, and standards established by the franchisor which in their establishment, operation, or application are not arbitrary or capricious." § 4-72-204(a)(2).	
California	California Franchise Relations Act (1980)	<p>"No franchisor may fail to renew a franchise unless such franchisor provides the franchisee at least 180 days prior written notice of its intention not to renew; and</p> <p>(a) During the 180 days prior to expiration of the franchise the franchisor permits the franchisee to sell his business ...</p> <p>(b)(1) The refusal to renew is not for the purpose of converting the franchisee's business premises to operation by... franchisor for such franchisor's own account, ...; and (2) Upon expiration of the franchise, the franchisor agrees not to seek to enforce any covenant ... not to compete ...; or...</p> <p>(e) The franchisor withdraws from distributing its products or services through franchises in the geographic market served by the franchisee, provided that . . .</p> <p>(f) The franchisor and the franchisee fail to agree to changes or additions to the terms and conditions of the franchise Agreement ..." § 20025.</p>	
Connecticut	Chapter 739. Trading Stamps, Mail Orders, Franchises, Credit Programs and Subscriptions, (1972)	"No franchisor shall . . . fail to renew a franchise, except for good cause which shall include, but not be limited to the franchisee's refusal or failure to comply substantially with any material and reasonable obligation of the franchise agreement or for the reasons stated in subsection (e) of this section." § 42-133f(a).	Amended: 1973, 1974, 1975, 1984, 1985. Subsection (e) states "A franchisor may elect not to renew a franchise which involves the lease by the franchisor to the franchisee of real property and improvement, in the event the franchisor (1) sells or leases such real property and improvements to other than a subsidiary or affiliate of the franchisor for any use; or (2) sells

			or leases such real property to a subsidiary or affiliate of the franchisor, except such subsidiary or affiliate shall not use such real property for the operation of the same business of the franchisee; or (3) converts such real property and improvements to a use not covered by the franchise agreement; or (4) has leased such real property from a person not the franchisee and such lease from such person is terminated or not renewed.”
Delaware	Delaware Franchise Act (1970)	“The failure of a franchisor to renew a franchise shall be deemed to be "unjust," or to have been made "unjustly," if such failure to renew is without good cause or in bad faith.” § 2552(b).	
Hawaii	Franchise Investment Law (1974)	“[I]t shall be an unfair or deceptive act or practice or an unfair method of competition for a franchisor or subfranchisor to [t]erminate or refuse to renew a franchise except for good cause ... unless and to the extent that the franchisor satisfies the burden of proving that any classification of or discrimination between franchisees is reasonable, is based on proper and justifiable distinctions considering the purposes of this chapter, and is not arbitrary. ...” § 482E-6(2).	
Indiana	Indiana Deceptive Franchise Practices Act (1976)	“It is unlawful for any franchise agreement entered into between any franchisor and a franchisee ... to contain any of the following provisions: (8) Permitting the franchisor to fail to renew a franchise without good cause or in bad faith. This chapter shall not prohibit a franchise agreement from providing that the agreement is not renewable upon expiration or that the agreement is renewable if the franchisee meets certain conditions specified in the agreement.” § 23-2-2.7-1 (1)(8).	Amended: 1985, 1987
Illinois	Franchise Disclosure Act of 1987	“It shall be a violation of this Act for a franchisor to refuse to renew a franchise of a franchised business located in this State without compensating the franchisee	

		either by repurchase or by other means for the diminution in the value of the franchised business caused by the expiration of the franchise where: (a) the franchisee is barred by the franchise agreement . . . from continuing to conduct substantially the same business under another trademark, service mark, trade name or commercial symbol in the same area subsequent to the expiration of the franchise; or (b) the franchisee has not been sent notice of the franchisor's intent not to renew the franchise at least 6 months prior to the expiration date or any extension thereof of the franchise." § 705/20.	
Iowa	Iowa Franchise Act (2000)	"A franchisor shall not refuse to renew a franchise unless . . . [g]ood cause exists, provided that the refusal of the franchisor to renew is not arbitrary or capricious." § 537A.10.8.a.(2)(a).	The franchisor may also refuse to renew a franchise if "[t]he franchisor and franchisee agree not to renew the franchise" or "[t]he franchisor completely withdraws from . . . distributing its products or services in the geographic market served by the franchisee" provided that the franchisor agrees not to enforce any applicable noncompete covenants with the franchisee. See § 537A.10.8.a.(2)(b), (c).
Michigan	Michigan Franchise Investment Law (1974)	"Each of the following provisions is void and unenforceable if contained in any documents relating to a franchise: (d) A provision that permits a franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures, and furnishings." § 445.1527(d).	Amended in 1984. This subsection applies only if the term of the franchise is less than 5 years and the franchisee is prohibited by agreement from competing with the franchisor or the franchisee does not receive at least 6 months notice of the franchisor's intent not to renew the franchise. § 445.1527(27)(d).
Minnesota	Minnesota Franchise Act (1973)	"Unless the failure to renew a franchise is for good cause . . ., no person may fail to renew a franchise unless (1) the franchisee has been given written notice of the intention not to renew at least 180 days in	

		advance of the expiration of the franchise; and (2) the franchisee has been given an opportunity to operate the franchise over a sufficient period of time to enable the franchisee to recover the fair market value of the franchise as a going concern, as determined and measured from the date of the failure to renew. No franchisor may refuse to renew a franchise if the refusal is for the purpose of converting the franchisee's business premises to an operation that will be owned by the franchisor for its own account." § 80C.14(4).	
Mississippi	Mississippi Franchise Statute (1975)	"No person who has granted a franchise to another person shall cancel or otherwise terminate any such franchise agreement without notifying such person of the cancellation, termination or failure to renew in writing at least ninety (90) days in advance of the cancellation, termination or failure to renew, except that when criminal misconduct, fraud, abandonment, bankruptcy or insolvency of the franchisee, or the giving of a no account or insufficient funds check is the basis or grounds for cancellation or termination, the ninety-day notice shall not be required. § 75-24-53.	Sentence refers to franchises, but included in "pyramid scheme" section. The chapter defines "franchise" as "a written arrangement for a definite or indefinite period, in which a person for a consideration grants to another person a license to use a trade name, trademark, service mark, or related characteristic, and in which there is a community of interest in the marketing of goods or services at wholesale, retail, by lease, agreement or otherwise ..."
Missouri	Missouri Franchise Statute (1974)	"No person who has granted a franchise to another person shall cancel or otherwise terminate any such franchise agreement without notifying such person of the cancellation, termination or failure to renew in writing at least ninety days in advance of the cancellation, termination or failure to renew, except that when criminal misconduct, fraud, abandonment, bankruptcy or insolvency of the franchisee, or the giving of a no account or insufficient funds check is the basis or grounds for cancellation or termination, the ninety days' notice shall not be required." § 407.405.	Sentence refers to franchises, but included in "pyramid scheme" section. The chapter defines "franchise" as "a written or oral arrangement for a definite or indefinite period, in which a person grants to another person a license to use a trade name, trademark, service mark, or related characteristic, and in which there is a community of interest in the marketing of goods or services at wholesale, retail, by lease, agreement, or

			otherwise.”
Nebraska	Franchise Practices Act (1978)	“It shall be a violation of sections 87-401 to 87-410 for a franchisor to terminate, cancel or fail to renew a franchise without good cause. This section shall not prohibit a franchise from providing that the franchise is not renewable or that the franchise is only renewable if the franchisor or franchisee meets certain reasonable conditions.” § 87-404.	“sections 87-401 to 87-410” refers to the “Franchise Practices Act.”
New Jersey	New Jersey Franchise Practices Act (1971)	“It shall be a violation of this act for a franchisor to ... fail to renew a franchise without good cause.” § 56:10-5	
Tennessee	Tennessee Franchise Statutes (1989)	“No franchisor may fail to renew a franchise unless such franchisor provides the franchisee at least sixty days’ prior written notice of its intention not to renew, such failure to renew is for good cause, and the franchisor has provided written notice of the facts and circumstances upon which it alleges that good cause exists to fail to renew.” § 47-25-1505.	
Washington	Washington Franchise Investment Protection Act (1972)	“[I]t shall be an unfair or deceptive act or practice or an unfair method of competition and therefore unlawful and a violation of this chapter for any person to [r]efuse to renew a franchise without fairly compensating the franchisee for the fair market value, at the time of expiration of the franchise, of the franchisee’s inventory, supplies, equipment, and furnishings purchased from the franchisor, <i>and good will</i> , exclusive of personalized materials which have no value to the franchisor, and inventory, supplies, equipment and furnishings not reasonably required in the conduct of the franchise business: PROVIDED, That compensation need not be made to a franchisee for good will if (i) the franchisee has been given one year’s notice of nonrenewal and (ii) the franchisor agrees in writing not to enforce any covenant which restrains the franchisee from competing with the franchisor: PROVIDED FURTHER, That a franchisor may offset against amounts owed to a franchisee under this subsection any amounts owed by such franchisee to the franchisor.” (emphasis added.) § 19.100.180. (2)	
Wisconsin	Wisconsin Fair Dealership Law (1973)	“No grantor.....may ...fail to renew...without good cause” § 135.03	Amended: 1977, 1990. A “dealership” includes a “contract or agreement ... by which a person is granted the right to sell

			or distribute goods or services, or use a trade name, trademark, service mark, logotype, advertising or other commercial symbol, in which there is a community of interest in the business of offering, selling or distributing goods or services at wholesale, retail, by lease, agreement or otherwise." A "grantor" is "a person who grants a dealership." § 135.02
Puerto Rico	Dealers' Contracts Act (1964)	"Notwithstanding the existence in a dealer's contract of a clause reserving to the parties the unilateral right to terminate the existing relationship, no principal or grantor may directly or indirectly perform any act detrimental to the established relationship or refuse to renew said contract on its normal expiration, except for just cause." PR ST T. 10 § 278a.	For purposes of this legislation, a dealer is a "[p]erson actually interested in a dealer's contract. A "dealer's contract" is defined as a "relationship established between a dealer and a principal or grantor whereby ... the former actually and effectively takes charge of the distribution of a merchandise, or of the rendering of a service, by concession or franchise.... A "principal" or "grantor" is a "[p]erson who executes a dealer's contract with a dealer." T. 10 § 278.
United States Virgin Islands	Consumer Protection Law of 1973	"It shall be a violation of this chapterfor any franchisor...to fail to renew....except that it shall be a complete defense ...for the franchisor to prove that the [non-renewal] was for good cause." § 132.	