

## **Inquiry: Franchising Code of Conduct**

Committee Secretary  
Parliamentary Joint Committee on Corporations and Financial Services  
Department of the Senate  
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Jon Cornish  
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Dear Committee Secretary,

Please find my submission into the Franchising Code of Conduct that is also my letter of complaint to the ACCC and the FCA.

There are four critical problems in my situation:

- 1.** Improper Disclosure Documentation (DD) was made prior to entry (in terms of timing, the amount of time, that I had already made payment of \$55,000 prior to seeing the DD, the accuracy of the DD) and does not conform to the FCC.
- 2.** Initial training was inadequate.
- 3.** Ongoing support was and is inadequate.
- 4.** Legal and reasonable methods of exiting are blocked, despite being available in the agreement.

I have run an education tuition franchise business in which I have been unable to pay myself, or my wife any income now for more than two years. I have a second job to help make ends meet and my wife works full time.

The situation is dire, I do not want to be a part of the business, yet I have not been allowed to sell (they say because of being non-compliant, yet this is not a condition of the agreement to sell – in fact I can be compelled to sell if I am non-compliant according to the agreement). The Franchisors are not interested in taking responsibility for their short comings in relation to the breaches they have made to the Franchising Code of Conduct as it currently stands.

I recommend that:

- 1. Legal aid** be provided to non-profitable franchises, so that they can see what there legal rights are.
2. That **Detailed disclosure had a mandated period of 30 days** prior to any money changing hands.
3. That the **ACCC prosecutes Franchisors in breach of the FCC**, including issues of accuracy within the DD (which I believe, because of the man hours required, they are less willing to allocated their resources to). ACCC needs specialist funding for the Franchising Industry.
4. That **initial training and ongoing training** has a clear **One to One training components**, that include: (i). demonstration of how the business is run (accounting, wages, employment advertising and interviewing, product knowledge, sales etc..), (ii). that the business is set up in a compliant state from the beginning and a certificate of meeting compliance has been demonstrated by the new owners prior to allowing them to run unaided the business in their territory, (iii). help and support on the business sites by the franchisors for the new managers/owners/franchisees for a period of up to the first two years of running the business.
- 5. That franchisors can't block franchisees from selling at a loss and moving on.** That if a franchisee is struggling, then advertising to sell at a price that the turn over predicts is reasonable on a valuation of the business should be allowed. That excessively onerous conditions of sale are not placed on the franchisee, the need to exit for people who find the business, for what ever reason, unsuitable in their circumstances, should be allowed to exit and move on.
6. That **national laws** associated with **reducing the amount of intimidation, bullying and harassment** are in place to protect the disparity of power between the two parties (and for other businesses generally – associated with the Trade Practices Act).

**7. Freedom of entry and exit** are paramount in allowing people a chance to quickly exit and seek other income opportunities that can provide for the needs of their family are critical.

**8.** Punitive reactions to accurate and truthful complaints made by franchisees should be respected, so that termination of contracts is not based on the complaints made by one of the parties against the other, but rather on legal facts.

**9.** That in the Office of Mediation - **mediators** should have a thorough understanding of the Franchising laws to allow them to clarify the clear legal positions of both and they must be trained accordingly, so that these skills can be brought to the table.

**10.** That the methods of witnessing a contract and entering into a contract are improved. That consideration be given to mandating legal and accounting analysis of any Franchise (especially for any Franchise that costs more than \$50,000).

I thank you for your time, my family has suffered unnecessarily because of the way we have been compelled, bullied and controlled, we survive on the generosity of some of our relatives, renting out a room in our house, taking on other jobs. I have been sedating myself heavily to ensure I get enough sleep, so I can get up for another day. I love teaching and the students I help, but it's the financial and emotional costs of running this business I have clearly communicated I'd like to exit that is critical in the short run to achieve.

In the longer term, it is imperative that extra resources are made available, with more detailed legislation to protect trusting and naive individuals from these false prophets.

Thank you for your considered opinion, I hope the inquiry goes well, because, for God's sake we need greater justice in the franchising system than is currently in place,

Jon Cornish