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Our ref: Letters/000972
Your ref:

10th September, 2008

Attention: **Committee Secretary**
Parliamentary Joint Committee on Corporations and Financial Services
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

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Re: Inquiry into the Franchising Code of Conduct

Submissions

1. I respectfully submit to the Joint Committee that a provision should be included in the Code of Conduct that precludes lawyers from acting for any party to a franchise related dispute that falls below a specified dollar amount.
2. I further submit to the Joint Committee that the existing mediation provisions of the Code should be modified and extended to accommodate compulsory dispute resolution in all cases that fall below the specified dollar amount.
3. I further submit to the Joint Committee that (appropriately qualified and licensed) mediators be given power to make binding decisions in all mediated disputes falling below the specified dollar amount.
4. I further submit to the Joint Committee that all lawyers, accountants and advisors providing franchise related advice should be subject to franchise specific regulation and/or licensing provisions.

Justification

It is probably accurate to state that lawyers, not franchisees, are the primary beneficiaries of all franchise related regulation. These professionals are paid enormous sums of money by all participants in the franchise sector – almost always without regard to the personal outcomes that arise for the parties who employ them.

Whilst many lawyers will initially suggest that their client seeks a mediated resolution to their issues, their actions will very often preclude such an outcome. When mediation fails, lawyers usually suggest litigation as the only available avenue for their client to obtain satisfaction. Regrettably, this is how lawyers actually make a living.

It goes without saying that Australia's legal system is adversarial, and that it is extremely costly to institute or defend legal actions. Unfortunately, as Australian lawyers tend to be paid regardless of outcomes, it is in their best interests to fan the flames in any dispute and encourage costly litigation. The reality is that this happens frequently.

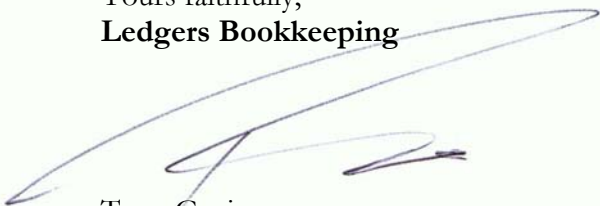
On the foregoing basis I submit that a lawyer-free system of compulsory mediation and binding resolution for all less substantive disputes (*which I contend are the majority of all franchise disputes*) provides a simple, affordable means for both franchisors and franchisees to have disputes properly heard and resolved without resort to the courts.

With regard to the regulation or licensing of lawyers, accountants and advisors providing franchise related advice, I contend introducing an additional barrier to entry at the advisory level in franchising will have the effect of dramatically reducing the number of franchise related matters bought before the courts for resolution.

Whilst all practicing lawyers are legally qualified to dispense franchise related advice, it is probably fair to state that relatively few lawyers have the industry specific knowledge or commercial experience to properly justify the advice that they give. The same could be said for many (if not most) accountants and other advisors.

An additional layer of regulation and/or licensing for lawyers, accountants and advisors dispensing franchise related advice would have the effect of reducing the overall number of participants involved in the industry at an advisory level. This would almost certainly result in a greatly reduced level of poor or inappropriate advice, which should translate into fewer matters being bought before the courts for resolution.

Yours faithfully,
Ledgers Bookkeeping

A handwritten signature in blue ink, appearing to read "Tony Gavin", is written over a light green rectangular background.

Tony Gavin
Managing Director