

From: Rudi Selles [REDACTED]

Sent: Thursday, 20 January 2011 4:18 AM

To: Economic & Finance Committee

Subject: Parliamentary Inquiry: Franchising

To whom it may concern,

I am employed by Gloria Jean's Coffees. The views expressed in this email are my own and that of the company.

I have been engaged in the franchising business for over 25 years. I have seen the development of regulation of the sector over a significant period of time.

I also have experience in global franchising including the USA.

I strongly oppose the introduction of State based legislation on franchising.

I have read and agree with the detailed reasoning provided by the Franchise Council of Australia. The franchise sector is already comprehensively regulated at a Federal level by the Franchising Code of Conduct and the Trade Practices Act, and overseen by the ACCC. We have just had two major Federal inquiries on this matter that specifically considered the recommendations of the SA and WA inquiries, so there can be no possible justification for introducing a new State law that contradicts the conclusions of these inquiries.

Any new legislation at State level will add compliance costs, and is a totally unnecessary duplication. I have seen no evidence of material problems in the franchise sector. However if there are problems, they should be fixed at a Federal level in the Franchising Code or by ACCC action. I have experienced the duplication, cost and irrelevance of State based regulation in the USA. What this results in is simply duplicative regulation leading to compliance for compliance sake. It has not led to greater benefits to either franchisees or franchisors.

Particularly, I also strongly oppose the introduction of any new State based duty of good faith. We already have the Franchising Code, prohibitions on misleading and deceptive conduct and unconscionable conduct and a common law duty to act in good faith that will apply to most franchise agreements. The Federal Government has determined after thorough investigation that any consideration of an express good faith obligation should be deferred until the sector is permitted to act under the changes recently made. Any new State based duty will create uncertainty, cost and be a disincentive to business in South Australia.

Regards

Rudi Selles
Group Legal Counsel