

Franchising

Special Reports

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Fast-growth sector, but mind the flaws

Franchisors have high hopes for the Labor government, including the streamlining of regulations, writes **Damien Lynch**.

There may not be another industry like franchising in this country. On the one hand, it is doing a fair imitation of the mining sector in the way that it has grown in the past decade. But on the other hand its dogged by the infighting and personal clashes that you expect in health and transport.

The number of franchise systems in Australia jumped to 960 in 2006 from 850 two years earlier, and 693 back in 1988. Total turnover for the franchising sector was estimated at \$128 billion in 2006, making up 14 per cent of gross domestic product. More than 600,000 Australians are employed in franchising.

Yet, the sector gets more than its fair share of negative attention.

Late into its term of office, the former government was forced to conduct a review of the disclosure provisions in the Franchising Code of Conduct. Recommended changes will come in to effect on March 1.

The Australian Competition and Consumer Commission is investigating allegations of unconscionable conduct by the high-profile Bakers Delight franchisor against some franchisees.

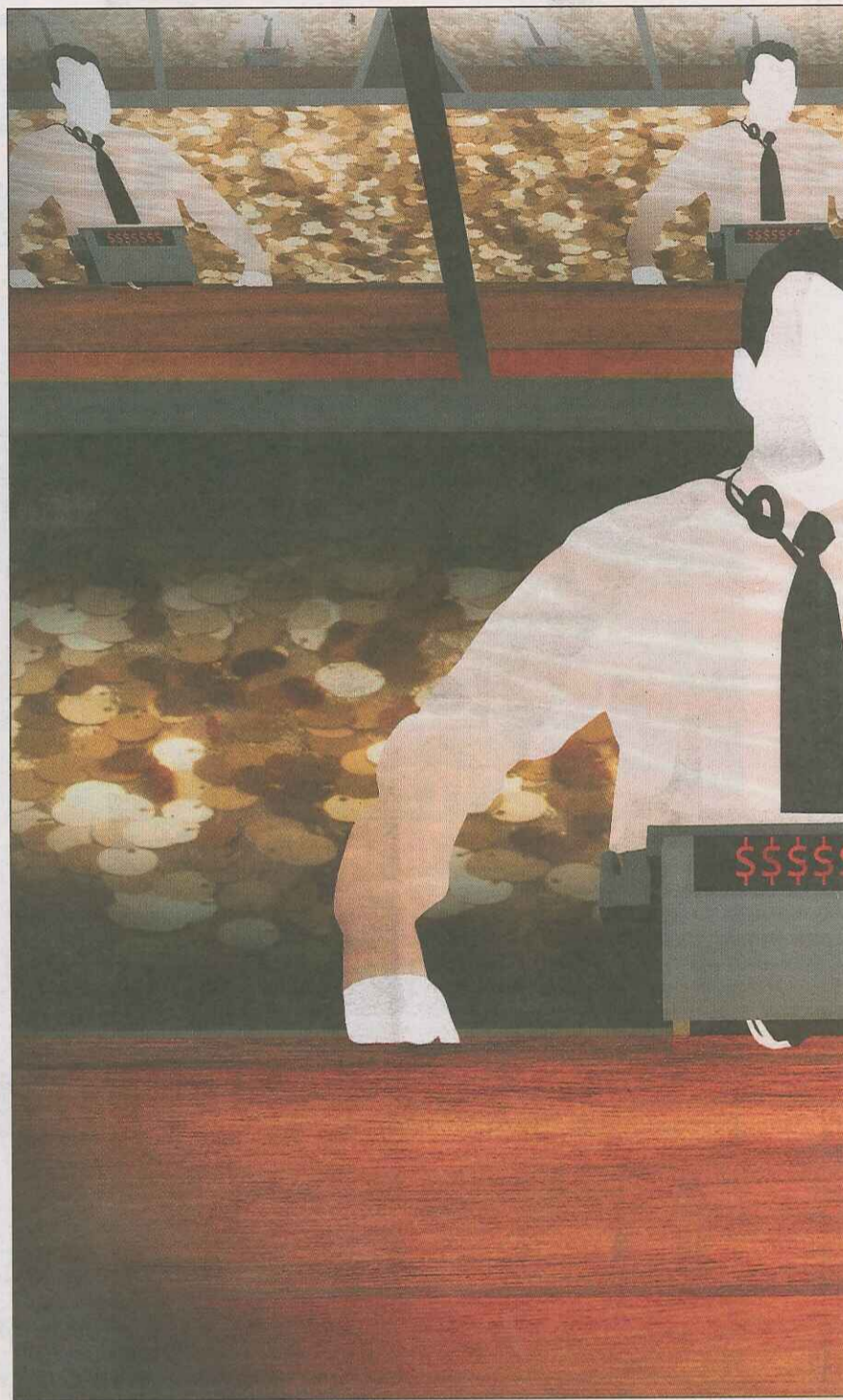
Elsewhere, the South Australian and West Australian state governments have investigations underway into the way franchising is conducted.

There have been calls for the Trade Practices Act to be tightened to prevent bullying amid reports that US-based Yum! Restaurants International, owner of the KFC and Pizza Hut brands, is refusing to renew franchise licences held by Competitive Foods, the KFC chain operator in Western Australia, as they fall due.

Former small business minister Fran Bailey promised to heed these calls just before she left office. Since then focus has switched to Labor. Industry players are waiting to see what the federal government will do to sort out the problems that cast a cloud over an industry that should be glowing in sunshine.

Soon after Craig Emerson was named federal Small Business Minister in late 2007, Franchise Council of Australia, the industry's main representative body, issued its checklist on what it wants from Labor in government.

FCA cited four key issues of concern. They were Franchising Code of Conduct amendments, state government inquiries into



franchising, the roll-back of Work Choices and the availability of subsidised broadband access for small business.

In response to a request by *The Australian Financial Review* to comment on these issues, Emerson says he will consult with the FCA on any further changes to the Franchising Code of Conduct and the roll-back of unfair dismissal laws.

Emerson told *the AFR* that he agrees with statements by the council that it is "not efficient or productive" to have different franchising laws across the states and territories of Australia, but he stops short of calling for a halt to ongoing state inquiries into franchising in both South Australia and Western Australia.

On calls for subsidised broadband access for small business, Emerson reiterates the governments plan to invest up to \$4.7 billion in it, which, he says, will provide massive benefits for small business.

He says: "The availability of a national high-speed broadband network will be a huge growth-generating infrastructure investment for small businesses, allowing them to drive down their costs through the adoption of new technologies that cut communications costs, enable online logistics and stock management and provide for low

cost video-conferencing services, just to name a few benefits."

Labor made a pre-election commitment to examine the feasibility of inserting a "good faith" bargaining provision in the Franchising Code, as recommended by the committee that reviewed the franchising code on behalf of the previous government. The recommendation that the Franchising Code should include good faith obligations provided that obligation is well defined was rejected by the Howard government.

Franchising Council of Australia responded to Labor's pre-election commitment by noting that proposals to legislate for a good faith obligation had been previously rejected as inappropriate, so any

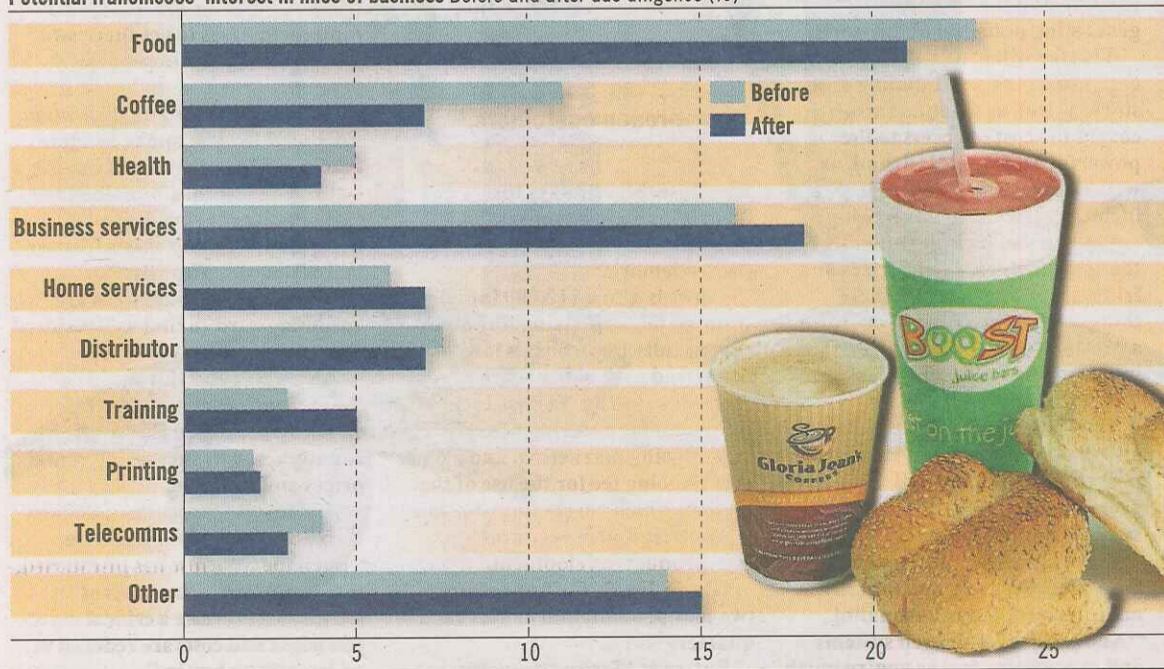
'High-speed broadband will drive down costs for small business.'

amendment in that area would be a major policy change. While the FCA supports amendments to reflect any uncertainty created by code drafting, existing substantive amendments should be given time to be absorbed by the sector.

In his update on the subject of a good faith bargaining provision, Emerson says the government recognises that the scope of any good bargaining provision needs to be well defined.

Popular businesses

Potential franchisees' interest in lines of business Before and after due diligence (%)



SOURCE: 10 THOUSAND FEET