



## Franchise Council of Australia Media Release

Wednesday 1 March 2017

**Melbourne:** Government's well-meaning on 'vulnerable workers' but misses the mark.

The Franchise Council of Australia (FCA) notes the introduction today of the Government's the *Fair Work Amendment (Protecting Vulnerable Workers) Bill 2017*.

The FCA has valued the opportunity to be consulted on the Government's Bill and has repeatedly emphasised the diversity of the franchise sector across 1,100 brands supporting 79,000 separate small businesses that between them employ 472,000 people.

The FCA shares the Government's ambitions to improve protection for vulnerable workers but has seen no justification as to why franchising should be targeted.

The fact is the risk of worker underpayment exists across the economy and commercial relationships create a degree of control from one business over another that may impact on Fair Work Act compliance, yet the Government's Bill targets only franchising.

No one in the franchise community wants to see an employee underpaid or knowingly taken advantage of, in a franchise setting or any other kind of workplace.

The FCA welcomes the Government's boost to the resources available to the Fair Work Ombudsman, increased penalties for Fair Work Act breaches and enhancing the powers of the FWO to collect evidence. There were FCA recommendations to a Senate Inquiry.

However, to overcome significant uncertainty and harm from the 'joint employer' provisions in the Bill that are in laws nowhere else in the world, the concept of 'control' must relate to workplace relations if the aim is to impose 'joint employer' liabilities onto franchisors for the workplace non-compliance of franchisees.

In the lead-up to last year's election, media coverage of wage underpayment and workplace irregularities at 7-Eleven were prominent, prompting election commitments in response from the Coalition, Labor and the Greens.

The FCA was optimistic that the reality that the vast majority of franchise systems see an SME franchisor supporting a small business franchisee would inform the Government's policy

implementation, in the post-election period.

The FCA will continue to engage constructively with the legislative process with the aim of improving protections for vulnerable workers while not undermining the franchise sector and model of enterprise through which 8-10% of Australia's GDP.

Our focus will be on advocating improvements to the legislation, that:

- reflect reassurances about 'right sizing' the law for the diverse and small business nature of franchising;
- use a trigger for liability being substantial control over workplace relations;
- require Courts and regulators to take account of a system's size and resources;
- clarity about what 'reasonable steps' actually means;
- focus of underpayment not paper work and technical judgements; and
- provide for an approved compliance program as a clear defence against prosecution

ENDS

### **About the Franchise Council of Australia**

Formed in 1983 as a not-for-profit trade association, the Franchise Council of Australia Limited (FCA) is the peak body for the \$146 billion franchise sector in Australia, representing franchisees, franchisors and service providers to the sector. As the peak body for franchising, the FCA continues to add value to the businesses of its members by providing a range of services relevant to franchising. The FCA works constantly to ensure that all activities and services which benefit franchising benefit the broader community including franchisees, franchisors, employees and their local economies and communities.

The FCA is closely affiliated with franchising associations around the world, and is a founding member of the [Asia Pacific Franchise Confederation](#) (APFC). It is also a member of the [World Franchise Council \(WFC\)](#) and for 1999 and 2000 managed the secretariat for the World Franchise Council.

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