

World Franchise Council Joint Declaration of London, UK
March, 14, 2017



Global franchise community urges Australian sector collaboration to avoid regulatory over-reach

The World Franchise Council, representing the franchise sector associations of 44 participating countries, notes with concern the unprecedented legislative proposal in Australia to extend the liability for franchisee workplace contraventions to franchisors.

While no-one in the world franchise community wants to see the employees of franchisees treated in a manner contrary to their domestic workplace laws, the franchisee is the responsible employer for the proper treatment and payment of employees - not the franchisor which may have no visibility or control over franchisee workplaces arrangements.

This fundamental independence between the franchisor and franchisee is the bedrock of the success of franchising as a model of enterprise. Franchisees are separate and distinct businesses which are granted the rights to use the brand and business systems developed and supported by the franchisor under a commercial arrangement.

To assert that this commercial arrangement is a kind of employer-employee or 'joint employer' relationship is to misunderstand the franchise model, and risks undermining the strength, vitality and contribution of franchising to the Australian economy and community.

Australia is a global franchising powerhouse. To legislate a new kind of franchisor liability for pay and other workplace contraventions in a franchisee's business risks harming investment, growth and opportunities for enterprising women and men to get into a franchise business of their own.

Faced with extended liabilities for workplace contravention in franchisee businesses, it is likely that franchising opportunities will be diminished as brands turn to 'corporate' outlets and 'in house' service models to increase operational control and manage workplace risks.

Where franchise opportunities continue to be offered, greater supervision and monitoring to mitigate the extended liability will increase operating costs to the detriment of small business franchisees. The increased risk will encourage franchisee 'termination' at the first sign of any workplace irregularities, to the detriment of small business owners and their employees.

Legislation that promotes early termination runs contrary to one of the strengths of the franchising model. Avoiding sanctions will override the 'shared purpose' of making know-how, education and training and system improvements available by the franchisor to support the franchisee with their business success and compliance.

The World Franchise Council believes that the franchising community of Australia has demonstrated by its actions a commitment to working collaboratively with regulators and franchise systems to lift standards and compliance with workplace and pay requirements across the sector.

In this spirit, the World Franchise Council respectfully calls upon the Australian Government and legislators to:

- work collaboratively with the Franchise Council of Australia to guard against harmful, unjustified and unnecessary regulation;
- amend proposed legislation to ensure the actual employer of the harmed employees and those directly involved in actions causing harm to employees, arising from workplace law contraventions, are properly held to account and penalised;
- allow the measures recommended by the Franchise Council of Australia, being increased resources to the regulator, stiffer penalties for breaches and stronger investigative powers, to take effect before concluding that current laws are inadequate and regulators require unprecedented additional laws; and
- support industry-led workplace compliance and assurance programs, developed in partnership with the workplace regulator and calibrated to work effectively and efficiently in the widely varying franchise systems, to promote workplace obligation compliance and the early identification and rectification of workplace irregularities.

The World Franchise Council believes that the collaborative approach outlined above will ensure that the stated policy intention of better protecting vulnerable workers is advanced without the risk of a regulatory over-reach. Regulatory misadventure risks unjustifiably harming the reputation and appeal of franchising, the Australian economy, thousands of franchisee small businesses and tens of thousands of livelihoods that depend on these businesses.

A poor legislative outcome represents an existential threat to franchising as a viable and successful business model, driving growth, innovation and opportunity in the Australia.

The World Franchise Council has seen no evidence that workplace requirements are more likely to be breached in a franchise system than in any other workplace or under other forms of commercial arrangement between separate entities. We are bewildered as to why franchising has been singled out and targeted.

The World Franchise Council can attest to how the global franchising community has looked to Australia for many years for examples of better practice regulation, public policy insight, franchise system innovation and brand creativity.

Sadly, we now look with concern at Australia's unprecedented step to consider legislating to introduce new 'joint employer' liabilities not seen anywhere in the world.

The World Franchise Council believes embracing the collaborative approach outlined in this declaration and being pursued by the Franchise Council of Australia, will ensure that Australia continues to be 'a beacon of better franchise practice and opportunity' for years to come.

About the World Franchise Council

The World Franchise Council is an international entity that unites the franchise associations of 44 countries. The World Franchise Council, through its principles of ethics, supports the development and protection of franchising and promotes a collective understanding of best practices in fair and ethical franchising worldwide.

This declaration unanimously approved by the World Franchise Council national and supra-regional members in attendance at the London meeting as follows:

1. Argentina
2. Asia-Pacific Franchise Confederation
3. Australia
4. Belgium
5. Brazil
6. Britain
7. Canada
8. China
9. Columbia
10. Croatia
11. Egypt
12. European Franchise Federation
13. Finland
14. France
15. Greece
16. Hungary
17. Indonesia
18. Italy
19. Korea
20. Lebanon
21. Malaysia
22. Netherlands
23. New Zealand
24. Philipinnes
25. Portugal
26. Russia
27. Singapore
28. South Africa
29. Spain
30. Switzerland
31. Taiwan
32. Turkey
33. United States of America