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| **Name** | Anonymous |
| **1. What are the critical pieces of information that should be contained in a summary document?** | |
| The current disclosure document already has too much information. It should have the total investment required to open the franchise doors, and then ranges of costs associated with running the business. | |
| **2. If a national franchise register is established, what information should it contain? What would be the benefits and costs of a national franchise register?** | |
| Basic information about the franchisor.  Number of Domestic stores Number of International stores Number of | |
| **3. There are a number of existing educational resources on franchising. What additional education options for prospective franchisees should be made available? If there was an online educational resource which brought together the available franchising education options, what would its costs and benefits be?** | |
| There is already plenty of information about franchising available. Have a look at what the associations provides as well as information on government websites. There is no need to spend more money on duplicating resources. | |
| **Problem 1.1: Disclosure can be hard to comprehend, critical information may be hidden in detail and some information is not provided in the disclosure document.** | |
| Option 1.1.3: Simplified disclosure requirements. Require that a simplified disclosure document, which provides all materially relevant information needed to assess the franchise business, is provided to prospective franchisees | |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** | |
| Current disclosure has too much information around costs and is hard to nagivate. It should have total initial investment with a basic breakdown, and basic operating costs. A range of costs would be best as you cannot accurately compare the costs of operating a franchise in a small regional town to centre of sydney. The code requires franchisees have accountants and laywers sign off, there should be some onus on them to provide - not lay the total responsibilty on the Franchisor. It depends on the capabilty and drive of the franchisee. | |
| **Problem 1.2: The reliability of information provided to prospective franchisees may be difficult to assess** | |
| Option 1.2.1: Status quo (no changes) | |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** | |
| This is ridiculous, and an attempt to stifle growth and the industry. It should be that all Franchisors have to have their accounts audited by a registered auditor and that audtior signs off the statement that is given to prospective franchisees. It is unfair for a franchisor to have to divulge their entire financial situation for privacy reasons. | |
| **Problem 1.3: Information gaps – a potential franchisee might be unaware of which types of information are materially relevant to inform their decision to enter an agreement.** | |
| Option 1.3.1: Status quo | |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** | |
| That is their job to ask questions and investigate given the current public domain resources. Again it should not be up to the franchisor to assess what is happening in a franchisees head. They need to properly assess the business, in addition to help from accountants and lawyers. | |
| **4. What are the practical implications (costs and benefits) for prospective franchisees and franchisors of increasing cooling off or disclosure periods?** | |
| Cooling off periods are a waste of time and money. There is months of meetings and disclosure documents discussions, they have meet with accountants and lawyers and discussed. This is not a one meeting situation where a cooling off period is required. It is not like they have walked into a car yard and walked out with a car. There is already mandatory time of having disclosures etc. | |
| **5. How easy is it for franchisors to provide reasonable estimates of leasing costs before they are finalised?** | |
| No - this should be a part of the franchisees investigations and the business plan they do up prior to entering into the franchise. | |
| **6. How often are leasing arrangements finalised after the cooling off period expires? What are the implications of having the cooling off period commence after a lease is finalised?** | |
| In my business never. | |
| **Problem 2.1: Cooling off rights may expire before franchisees and franchisors have adequate time to appropriately reflect on their business arrangements after entering the agreement** | |
| Option 2.1.1: Status quo, with clarification of the operation of existing cooling off requirements in the code | |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** | |
| There is no need for cooling off periods. As per my previous point. | |
| **Problem 2.2: Cooling off rights may expire before lease arrangements are finalised** | |
| Option 2.2.4: Improve education and awareness around leasing and franchising | |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** | |
| Have the franchisee investigate as part of their business planning | |
| **Problem 2.3: Cooling off rights in transfers, extensions and renewals can be unclear, including with respect to franchisee to franchisee sales** | |
| Option 2.3.1: Status quo (no changes) | |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** | |
| Again why would this be necessary | |
| **7. What would ‘meaningful information’ look like in terms of marketing fund disclosure?** | |
| There is no need to legislate this type of thing. This is the relationship between the parties. There is mechanisms under the franchise agreement if one party is not fulfilling its obligations. | |
| **8. How does the benefit of increased frequency of reporting of marketing funds compare to the costs of increased administration?** | |
| The current arrangement is more than adequate, particularly given the recent cases about the level of disclosure. | |
| **Problem 3.1 Marketing funds are not always transparent** | |
| Option 3.1.1: Status quo (no changes) | |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** | |
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| **9. What information should franchisors disclose in relation to supplier rebates? Are there any barriers to providing this?** | |
| They should disclose: - Total Fees paid (both ongoing and initial) - All rebates received from suppliers - either percentage or turnover or $$ depending on how calculated.  - Each year along with marketing this should be disclosed.  - Rebates should go to the marketing fund, unless otherwise agreed. | |
| **10. If franchisors are required to ensure franchisees get a return on their significant capital expenditure, how might this be done in practice?** | |
| It should be limited to a percentage of the initial franchise fee paid, and limited during the period of the franchise agreement.  At renewal, the franchisee can decide whether they want to invest any additional capital exp that the franchisor requires. | |
| **11. If franchisees are given a right to review capital expenditure business cases (which must be presented to franchisees by the franchisor under clause 30(2)(e) of the Franchising Code for expenditure that the franchisor considers is necessary for capital investment), how would this right be exercised?** | |
| Disagree with this requirement. | |
| **Problem 4.1 Supplier rebates can lead to conflicts of interest** | |
| Option 4.1.2: Address conflicts of interest in the handling of supplier rebates to franchisors by requiring increased disclosure | |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** | |
| They should disclose: - Total Fees paid (both ongoing and initial) - All rebates received from suppliers - either percentage or turnover or $$ depending on how calculated.  - Each year along with marketing this should be disclosed.  - Rebates should go to the marketing fund, unless otherwise agreed. | |
| **Problem 4.2 Conflicts of interest in the context of capital expenditure** | |
| Option 4.2.1: Status quo (no change) | |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** | |
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| **Problem 4.3 Unilateral variations can lead to conflicts of interest and exploitation** | |
| Option 4.3.1: Status quo (no change) | |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** | |
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| **12. A number of stakeholders have told the Taskforce that the cost of arbitration can be comparable to going through the court system, and that conciliation may be a preferable alternative alongside mediation. In what circumstances could conciliation be an effective alternative dispute resolution process?** | |
| Arbitration is the worst form of resolving a dispute. They are binding and hard to appeal - if there is going to be a binding agreement it needs to be by a judge, not an industry individual, and the option to appeal.  It should be first mediation, then court if absolutely necessary, both parties have much better protection and can appeal bad decisions. | |
| **13. Would you consider including arbitration to resolve disputes in your franchising agreement, if a clear voluntary option were provided?** | |
| No way. | |
| **Problem 5.1: Some disputes are not being resolved in a fair, timely and cost effective manner.** | |
| Option 5.1.3: Clarify the complaint handling procedure requirements in the Franchising Code, to require dispute resolution processes be included in franchise agreements. Provide best practice guides for these processes (including options and timeframes) | |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** | |
| But without arbitration. | |
| **14. Under what circumstances should franchisees be allowed a no-fault exit from the franchise system?** | |
| If the franchise agreement allows. There is a commercial agreement for a reason. They have many options under most franchise agreements include selling the business. In what commercial situation should someone be able to sign a contract and then say - sorry I dont want to be bound by that contact. The same should apply to Franchisors. | |
| **15. If goodwill was required to be fully clarified in the franchise agreement, how might this be done in practice? What would be the costs and benefits of this approach?** | |
| No benefit - again should be covered by the franchise agreement | |
| **Problem 6.1 Reasonable exit arrangements may not be, or may not be perceived to be, available or accessible for some franchisees** | |
| Option 6.1.1: Status quo (no change) | |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** | |
| As per the franchise agreement | |
| **Problem 6.2 Excessive restraint of trade clauses may inhibit lawful pursuit of subsequent business interests** | |
| Option 6.2.1: Status quo (no change) | |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** | |
| Restraint of trade clauses should be consistent with what is allowed in every industry. If you sell your business (non franchise) most buyers require a restraint of trade provision. The same level of enforceability should apply here. | |
| **Problem 6.3 There are different expectations around the treatment of goodwill in franchise arrangements** | |
| Option 6.3.2: Clarify the franchisees’ rights in regard to goodwill, if any, in the franchise agreement | |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** | |
| This is up to the lawyers drafting the franchise agreement and the prospective franchisees lawyers understanding and explaining to their client. | |
| **16. What are the implications of amending the Oil Code of Conduct to increase the number of common provisions between the Oil and Franchising Codes? What would be the costs and benefits of this approach?** | |
| Zero benefit. Stop regulation where the market can regulate | |
| **17. What are the implications of repealing the Oil Code of Conduct and adding specific fuel retailing provisions to the Franchising Code?** | |
| Zero benefit. Stop regulation where the market can regulate | |
| **Problem 7.1: Some franchisors experience additional regulatory burden from having to comply with both the Franchising Code and the Oil Code** | |
| Option 7.1.1: Status quo (no change) | |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** | |
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| **Problem 7.2: Compliance with the Franchising Code, Oil Code and where relevant the Competition and Consumer Act and the Australian Consumer Law, remains imperfect** | |
| Option 7.2.1: Status quo (no change) | |
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| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** | |
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| **Are there any other comments you would like to make?** | |
| Franchising is a valuable part of the Australian economy. There is already a lot of legislation applicable. We should be limiting further government regulation. The sad part is that the government seems insistent on increasing regulation, Franchisors cannot carry this - so it then gets passed on overtime in increased fees to franchisees. So while the government thinks it is help - it is really just driving the cost of doing business up and the cost to franchisees up. | |