

Small and Family Business Division
The Treasury
Langton Crescent
PARKES ACT 2600

Oct 29, 2021

Subj: Franchise Disclosure Register

Dear Sir/ Madam:

I currently work as Senior Lecturer in Marketing, Monash Business School, Monash University. Prior to my current position, I worked in the United States for ten years. I have a PhD in Marketing from Ivey Business School, Western University, Canada. My research expertise is in the area of governance of inter-firm relationships and their performance implications. In particular, I adopt a quantitative approach to study how organizations initiate and maintain formal ties (for example, franchisor-franchisee relationships) to improve performance. I am currently supervising two PhD students working on franchising.

The Parliamentary report on *Fairness in Franchising* has cited my recommendations. Specifically, “6.24 Some researchers have had to source data on the franchising sector from other jurisdictions that have more comprehensive public disclosure requirements.²¹ ...Public access to disclosure documents will enable prospective franchisees to read and understand the business without the sales pressure from franchisors. It also enables prospective franchisees to engage in adequate due diligence of more than one franchise system, if needed, before engaging with the franchisor. Further, public availability of franchise disclosure documents will facilitate evidence-based research on franchising in Australia.²² **Dr Mani recommended that the ACCC build a repository of disclosure documents that are freely available to the public²³** ([Fairness in Franchising report, 2019, \(pp. 63-64\)](#)).

My responses are based on my research expertise in franchising, especially with regards to franchisor-franchisee relations and insolvency (bankruptcy).

The questions raised in the Exposure Draft are in italics and my responses follow in regular font.

Is the information to be included on the Register appropriate?

Most of the information provided on the franchisor profile is appropriate. Here are my suggestions.

First, I suggest removing the information on “total number of existing franchised businesses” from the Register’s profile page. Information only on number of franchised businesses signals that this information is critical. Instead, prospective franchisees should consider the Key Facts Sheet, disclosure document, and the contracts before making an informed decision.

Second, the Exposure Draft is not clear on what is included on the *advance search* page of the *Search the Franchise Disclosure Register*. The search should be straightforward and not signal

franchise quality. Any prioritizing of one or two pieces of information may be detrimental to prospective franchisees as it encourages heuristics in decision-making. The purpose of the disclosure is to encourage comprehensive due diligence. In this regard, the current search criteria are adequate.

Third, the description of business may be limited to 100 words.

Fourth, include the **year** of the document and the **date it is added** to the Register on the results page. By adding the year of the document, there is no need to remove old documents from the Register.

Are there other types of information, not within the existing scope of disclosure, that are important for prospective franchisees to compare?

The following two documents should be added to the Register:

- **Contracts** – In the United States, in addition to the franchise disclosure document, the contracts are publicly available. These contracts are not franchisee specific.

Studying franchise contracts is important and relevant to make evidence-based recommendations to the sector. For example, my PhD student, Areej Alshamrani's dissertation examines how different contract dimensions affect franchisor performance. In this research, Areej relies on franchise contracts from the United States. There is very little research in this area. Her dissertation proposal was a Finalist for the 2020 Annual Marketing Doctoral Support Award Competition, Institute for the Study of Business Markets, Penn State University, USA. The award recognises dissertation proposals that contribute to theory and practice.

- **Key Facts Sheet:** Franchisors are now required to provide franchisees with the Key Facts Sheet. Franchisors can share this summary document through the disclosure Register. This adds no additional burden for franchisors as they are already required to provide this information to prospective franchisees.

The benefits of providing the standard franchise contracts and Key Facts Sheet on the disclosure Register will enable franchisees make an informed decision. These additional documents will provide greater transparency and further reduce the information asymmetry between the franchisor and franchisee.

The Key Facts Sheet can help prospective franchisees screen numerous franchisors. Prospective franchisees can then carefully review the disclosure documents and contracts for further discussions.

Finally, in addition to the above, we find in our research¹ that franchisors' selection criteria and on-going franchisor support reduce the risk of franchisee insolvency. Any additional information on these will be helpful to prospective franchisees. For example,

- 1) Franchisor Selection criteria
 - i) Does the franchisor require either general or specific industry experience?
 - ii) Does the franchisor require the franchisee to have a formal education?
 - iii) Does the franchisor consider the franchisees' financial net worth in their decision?

- 2) On-going franchisor support
 - i) Does the franchisor organize regional or national meetings?
 - ii) Is there a franchisee association?
 - iii) Does the franchisor offer field training prior to the opening of the outlet? Is this training mandatory? How much does it cost?
 - iv) Does the franchisor offer annual field training? Is this training mandatory? How much does the training cost?
 - v) Is there a franchisee newsletter?

Is the information to be redacted from franchisors' Disclosure Documents appropriate?

Redactions should be carefully considered and should be at the minimum. In the United States, there is no redaction on the information shared through the state registries (disclosure documents and contracts).

Any redactions should be limited and should only be because it is:

- covered by the *Privacy Act 1988*
- franchisee or franchise-site specific

Any information that is for the franchise-system should be readily available.

Sensitive information (rebates or franchisor support) – only the quantitative information may be redacted, but there is no material need to redact the complete section.

Are the transitional arrangements appropriate?

Yes, it seems reasonable.

Is the proposed portal functionality fit-for-purpose?

Yes.

¹ Kersi D. Antia, Sudha Mani, and Kenneth H. Wathne (2017) Franchisor–Franchisee Bankruptcy and the Efficacy of Franchisee Governance. *Journal of Marketing Research*: December 2017, Vol. 54, No. 6, pp. 952-967.

Do you have any other suggestions on how to ensure franchisees and users of the portal understand that information on the Franchise Disclosure Register is not endorsed or checked by Government?

On the portal's main page, it may be stated – “This website is for informational purposes only. All users are advised to conduct independent due diligence in using this information.”

Further, there could be an additional pop-up when users click to download a document – “This website is for informational purposes only. You are advised to conduct independent due diligence in using this information.” The user then has to click ‘OK’ to access the document.

I am happy to discuss these recommendations, and thank you for the kind consideration.