

6th of April 2017

Committee Secretary  
Senate Education and Employment Committees  
PO Box 6100  
Parliament House  
Canberra ACT 2600

By email: [eec.sen@aph.gov.au](mailto:eec.sen@aph.gov.au)

**RE: ALNA Submission on Fair Work Amendment (Protecting Vulnerable Workers) Bill 2017**

Dear Committee,

There are 15,000+ Australians working in the Newsagent & Lottery Agent channel. Together we contribute \$2.5 billion dollars annually to the Australian economy. We have 3000+ high profile retail/distribution outlets, and have one of the largest distribution networks in Australia, covering almost every community in the country. Statistics show that 85 per cent of Australia's population over 14 years of age enter a newsagent or lottery agent at least once a week. They are one of the largest and most trusted independent retail channels in our community.

The Australian Newsagents' Federation (ANF) has recently rebranded as the Australian Lottery and Newsagents' Association (ALNA). We are the peak national body, who along with affiliated state lottery associations, represent these small businesses in almost every rural town, regional centre, urban and metropolitan shopping centre in Australia.

A majority of our members are involved in franchising, predominantly as Lottery retailers. They operate under Franchise agreements with Tatts Group and its subsidiaries in all states and territories, except Western Australia, where our members operate under agreements with Lotterywest. Many of them also are franchisees with overall banner marketing groups and with other sub-brand category offers in their stores.

Consequently, they are very concerned about any uncertainty and potential implications that may flow from the **Fair Work Amendment (Protecting Vulnerable Workers) Bill 2017**, which seeks to share Workplace relations liability with our franchisors.

As responsible business owners, our members are overwhelmingly part of our industry body in order to understand and remain compliant with their workplace relations obligations. The Fair Work Act already has strong laws for our members to comply with and the Fairwork Ombudsman has recognized that members of industry bodies like ours are often the most compliant. We don't want to see any employee underpaid and we certainly do not condone the behavior of a few franchisors with significant control over their franchisees, who have acted improperly. Nonetheless, it is one of our primary roles to educate our members on their workplace relations obligations, and we are concerned about the implications of this Bill, as it appears to be making the many responsible for the wrong doing of a few.

In our industry, we don't have a substantial group of migrant workers employed in our businesses and the franchise models present, operate in only a portion of our business. They may represent somewhere between 10-60% of the business individually, depending on the outlet, but very rarely would they cover the whole business. Those franchisors only exert significant control over a single aspect of the business, not the whole, and so consequently it would be almost impossible for a franchisor to determine which employee is working in the franchise or in other aspects of the business at any one time.

Relationships with our large franchisors are not always the professional adult to adult relationship we would hope for, but are more paternalistic master/servant in reality. This bill impacts that significant imbalance of market power further. Legislating to deal with an issue effecting a small number of franchisors, while impacting negatively the whole franchising industry, has the potential undermine the validity of franchising overall and make life very difficult for small business owners.

The model needs to be reasonable for the diversity of franchise types and the model in our industry does not neatly fit with the way this Bill is drafted. The concept of a joint employer liability on any aspect of our business is frankly quite scary for the freedom of small businesses to determine their own operational destiny, which is why most people start a small business in the first place.

Legislators need to consider the increased risk factors that this bill will create. Franchisors will pass on any costs of new liabilities and any obligations of this potential new regulation to franchisees, which will cost them more in both time and money. It may also create pathways for civil legal action for instance, which is a major problem.

Workplace Relations is already still too complex, small businesses are not little big businesses, they are small businesses, and an inability to right size this intervention, will see franchisors overseeing operational liability for workplace relations in small business when they are not the right people to be doing this.

It should be as easy as possible for the majority of small businesses to comply with workplace relations laws, while protecting the rights of all employees. While there is an identified compliance shortfall here that is trying to be addressed by legislation, is this the right size intervention and the correct path, when enforcement of existing laws and working with industry sectors would be a more proportional response.

Reasonable regulation should not increase liability and costs to our members and should not undermine the essential elements of why a business franchises. We need business simplification not further layers of complexity and compliance.

Our members would appreciate you giving this matter your full consideration as it has major implications for all small businesses who are involved in franchising.

Yours sincerely,

**Ben Kearney** MBus, GradCertPublicPlcy  
General Manager Policy, Government & Stakeholder Relations  
Australian Newsagents' Federation T/as Australian Lottery and Newsagents Association