



7-Eleven Stores Pty. Ltd.  
ABN 48 005 299 427

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Committee Secretary  
Parliamentary Joint Committee on Corporations and Financial Services  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Email: [corporations.joint@aph.gov.au](mailto:corporations.joint@aph.gov.au)

Dear Committee Secretary,

**Parliamentary inquiry into Franchising Code of Conduct  
Response to submission no. 85 – Franchise Redress**

In line with your invitation to Franchise Council of Australia (FCA) members, 7-Eleven seeks to respond to assertions made about our business by Mr Michael Fraser of Franchise Redress in his submission (number 85) made to the Committee.

**Denigrating individuals**

Disappointingly, the submission continues Mr Fraser's unfortunate *modus operandi*<sup>1</sup> of denigrating individuals and making malicious insinuations without any evidence or substantiation.

The submission notes 'The former CEO of Grill'd used to be the CEO of recently collapsed Aussie Farmers Direct and is now Chief Acquisitions Officer at 7-Eleven' (p.4). This is clearly designed to lead the reader to form a conclusion that this individual played a role in the collapse of Aussie Farmers Direct and the alleged behaviour at Grill'd. This is totally unsupported by any facts. The individual Mr Fraser refers to left Aussie Farmers Direct five years before its collapse, and left Grill'd well before the behaviour alleged in the submission. Without the parliamentary privilege afforded the submission, such an insinuation would be defamatory and should play no part in the Committee's considerations of an important policy issue.

The submission also notes that 'the current (7-Eleven) chairman also sat on the board for over a decade while systemic underpayment occurred' (p.3), and questions his suitability to lead the reform of the business. As has demonstrably been shown through ACCC and FWO investigations, two Senate inquiries, and internal audits, the Board was not aware of the systemic nature of underpayments revealed in 7-Eleven's franchised network. Under the leadership of our Chairman, communicated in many public statements, interviews and an op-ed, the Board has acknowledged it should have been aware, and the business has voluntarily taken responsibility for remediating the underpaid franchisees' staff, and implemented the most comprehensive reform program in the sector to eradicate such behaviour.

Lastly, in respect of 7-Eleven's owner, the submission states:

In relation to this inquiry and any submissions made by 7-Eleven or their franchisees, we must remember that the almost billionaire owner and former chairman of 7-Eleven, who profited for decades while underpayment occurred (sic), is still the owner. (p.3)

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<sup>1</sup> <https://www.smh.com.au/business/banking-and-finance/commbank-boss-awarded-300000-defamation-payout-after-hellish-stalking-campaign-20151208-gli7fs.html>



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It further suggests:

The true extent of the backpay at 7-Eleven will never be known, nor will we know how much financial benefit 7-Eleven and owners received as a result. What we do know is [REDACTED], the owner, would not almost be a billionaire and perhaps not even a millionaire. (p.6)

This assertion is demonstrably false and indicates a complete lack of understanding of franchising and 7-Eleven's business model. The wage underpayment occurred in the franchise network – the person benefiting from any underpayment was the franchisee. Our owners took immediate accountability, voluntarily funding Australia's largest ever wage repayment program (in stark contrast to many other business' responses to similar issues) which saw more than \$160 million paid to 7-Eleven workers to rectify underpayments.

### Unsubstantiated hearsay

Regrettably much of Franchise Redress' commentary regarding 7-Eleven is nothing more than unsubstantiated hearsay. In relation to a number of claims throughout pages 2-7, the only substantiation provided is 'our office received many calls', 'we did hear', 'we still regularly receive intel' and 'rumours'.

Indeed the only time a reference is provided is to substantiate the claim that 'there is overwhelming evidence that head office were aware of systemic underpayment' – however this reference is to Mr Fraser's own submission to an earlier Senate inquiry which contains no evidence whatsoever.

Publicly and privately we have urged Mr Fraser to share any intelligence he has as to any wrongdoing in our franchise network in order that we may investigate. Despite claiming in the submission 'When the intel is usable we pass it to 7-Eleven and have to trust that they act on it,' since the mid-2015 revelations, Mr Fraser has only shared a few snippets of information, one as recently as this morning which he acknowledged 'was probably unhelpful'. In each case, Mr Fraser has not provided specifics of the store(s), individuals, or time periods allegedly involved, making it impossible to investigate let alone act upon.

We have repeatedly urged Mr Fraser to provided usable information that supports his allegations and committed to act upon such evidence.

The submission makes the assertion that some franchisees have not been terminated due to their having evidence that head office was complicit in the underpayment, but goes on to say this allegation 'may be completely misinformed'.

This is a clear and contemptible abuse of the parliamentary privilege afforded to the submission and is regrettably demonstrative of Mr Fraser's cavalier approach to serious issues.

### Specific claims

*CLAIM: The fact is, thousands of current and former 7-Eleven workers did not make a backpay claim for one reason or another. (p.6)*

**UNSUBSTANTIATED** – There is no proof that thousands of 7-Eleven franchisee staff that may have been underpaid did not lodge claims with 7-Eleven wage repayment programs. The Wages Panel, then the Wage Repayment Program, were communicated directly and regularly (at least 16 times) to more than 15,000 current and former employees, and via public calls in a range of national, international and social media over 18 months, with the application process designed to be as simple as possible. Every effort was made encourage any underpaid franchisee staff to come forward.



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*CLAIM: Our office received numerous phone calls from concerned franchisees claiming that 7-Eleven sent District Managers out to their stores with the new franchise agreement pressuring them to sign it or they would not receive ongoing support. (p.7)*

**FALSE:** Franchisees were free to accept the variation to the franchise agreement – which increased their share of the gross profit split with 7-Eleven – or remain with the old agreement (as a few initially chose to do). Several meetings were held and communications issued to explain the changes. Mr Fraser did not share any concerns with us relating to any franchisee feeling pressured to sign. Further, as a prerequisite to participation in the new arrangements offered by the variation 7-Eleven insisted that franchisees obtain independent legal advice.

*CLAIM: However, we still regularly receive intel about underpayments in the network, with workers having to pay cash back being the main issue. When the intel is usable we pass it to 7-Eleven and have to trust that they act on it. (p.7)*

**FALSE:** As mentioned above, since the mid-2015 expose, Mr Fraser has only shared a few snippets of information, one as recently as this morning which he acknowledged 'was probably unhelpful'. In each case, Mr Fraser has not provided specifics of the store(s), individuals, or time periods allegedly involved, making it impossible to investigate let alone act upon. Any reported underpayments are investigated thoroughly by an in-house compliance team and where deliberate contraventions of the Fairwork Act are evidenced, a termination has resulted.

*CLAIM: A possible challenge 7-Eleven has in terminating some of the multi-site franchisees (known in the network for being some of the worst for mistreating and underpaying their staff) is rumours that they claim to have evidence that shows head office were complicit, including the owner. (p7)*

**FALSE:** Mr Fraser acknowledges that this allegation 'may be completely misinformed' and it is totally disingenuous of him to include it. We have terminated around 15 franchise agreements for wage fraud since 2015. However, as outlined in our submission, neither Code we operate under provides the franchisor with an express right to immediately terminate a franchise agreement in circumstances where the franchisee has failed to comply with workplace laws. Instead, in order to immediately terminate on the basis of such a failure, the franchisor needs to either establish another basis for termination (such as fraudulent conduct, or, in the case of the Oil Code, reputational damage) or provide the franchisee with an opportunity to remedy the breach. If Mr Fraser has any evidence supporting his claim, we again urge him to share it with us so we may investigate and act accordingly.

### Concluding remarks

7-Eleven shares the community's concerns at recent developments within the broader franchising sector, acknowledging the systemic underpayment first identified within our franchised network. We acknowledge that Mr Fraser played a role in helping to bring these issues to light.

However, in respect of 7-Eleven, Mr Fraser's submission to this inquiry is little more than unwarranted and egregious denigration of individuals within 7-Eleven's business, and a litany of rumour, hearsay, and



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unsubstantiated and false claims that do him no credit nor contribute to the important work of the Committee.

In December 2015, in the defamation case *French v Fraser (No 3)* in the Supreme Court of NSW, in awarding \$300,000 damages – including aggravated damages – against Mr Fraser, Justice McCallum made a number of observations in her judgment regarding Mr Fraser's actions, including his unfounded attack on an individual's reputation and the lack of substantiation of his defamatory imputations.<sup>2</sup>

Regrettably, Mr Fraser's submission to this inquiry seems to follow a similar path and should be considered in this context by the Committee.

I would welcome the publication of this response, and it to be shared with committee members ahead of Mr Fraser's appearance before the Committee in Brisbane tomorrow.

Yours sincerely,

**Angus McKay**  
**CEO, 7-Eleven Australia**

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<sup>2</sup> <http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/nsw/NSWSC/2015/1807.html>