

**SUBMISSION TO THE FRANCHISING CODE OF CONDUCT REVIEW COMMITTEE**  
**BY EAGLE BOYS DIAL-A-PIZZA AUSTRALIA PTY LTD**

This submission has been prepared to assist the committee in understanding the franchisor's perspective to the application of the Franchising Code of Conduct. Eagle Boys Dial-A-Pizza Australia Pty Ltd operates a franchise system within Australia with franchisees trading under the brand 'Eagle Boys Pizza'. The Eagle Boys franchise system has been in existence for over 20 years and the success of the system is due to the work and support undertaken to ensure that franchisees succeed.

The following comments are made in relation to the specific terms of reference being addressed by the committee in the review process.

**1. The nature of the franchising industry including the rights of both franchisors and franchisees.**

The key to a successful franchise system is the success of the franchisee – franchisee success will lead to franchisor success. Eagle Boys is now a mature franchise system with over 230 stores across Australia and has grown significantly over the past five years. One of the key reasons for our success is the proactive approach that we take in recruiting franchisees. We have certain criteria and standards in this selection process to ensure that we get the best people working in the Eagle Boys system. Once a store is established, we work actively with franchisees to provide support and assistance to help the franchisee market and grow the business.

In essence, a franchise system works when the system and processes exist with a view to maximising benefit and value for all stakeholders.

**2. Whether an obligation for franchisors, franchisees, and prospective franchisees to act in good faith should be explicitly incorporated into the code.**

It is our opinion that there is no change required to the code in its current form, and there is no need to explicitly incorporate the good faith provisions into the code. The franchise systems that are successful have built their brand and success upon fair treatment and acting in good faith over a long period of time.

**3. Interaction between the code and Part IVA and Part V Division 1 of the Trade Practices Act 1974, particularly with regard to section 51AC of the act.**

As stated above, it is our opinion that there is no change required to the code in its current form. The contents of Part IVA (unconscionable conduct) and Part V (Consumer Protection) are fundamental to the way that businesses operate. Perhaps to make prospective franchisees aware of the provisions of these sections of the Trade Practices Act 1974, these sections could be annexed to the Franchising Code of Conduct.

**4. The operation of the dispute resolution provisions under Part 4 of the code.**

It is our opinion that the existing Dispute Resolution Process as defined in Part 4 of the code do not require any change. These provisions provide equal rights of both franchisor and franchisee to follow these documented procedures. A formal dispute resolution process such as this clearly defines the process to be followed.

**5. Any other related matters.**

A. The code has been recently amended (effective 1 March 2008) and there is one major practical issue that has resulted from these amendments. We are sending a disclosure document to a prospective franchisee on two occasions which is overdisclosure and frustrating to administer for a franchisor and a franchisee in receiving the same documentation on two occasions. Currently, we disclose to a potential franchisee at the time of them undertaking initial investigation of the system and due diligence work. The disclosure document provides the prospective franchisee with sufficient information to make an informed decision in relation to the franchise.

Section 10 of the code requires that we again provide a disclosure document, a copy of the code, and the franchise agreement in a form to be executed to the prospective franchisee. It is this disclosure that is used as the official disclosure document for the purpose of compliance with the code, and the franchise agreement cannot be executed nor a non refundable payment made to the franchisor within 14 days of this disclosure.

In practice, this causes difficulties as a franchisee is required to pay a deposit prior to commencing training, but typically has not signed the franchise documentation at this time.

We request that the requirement for disclosure be amended so that Section 10 of the code is altered to exclude (c) from this requirement.

B. The code needs to more clearly state the requirement to maintain an up to date disclosure document at all times. At the moment the code is unclear as to how often the disclosure

document is required to be updated. For example, should we be updating the document each time a new store is opened (so that the current disclosure is always up to date)?