

Our Ref: JP:050002

Secretary
Parliamentary Joint Committee on Corporations and Financial Services
Department of the Senate

By Email: corporations.joint@aph.gov.au

12 September 2008

Dear Committee

Franchising Code Submissions

I submit in response to the Parliamentary Joint Committee on Corporations and Financial Services' (**Committee**) invitation to submit to it a submission as part of its review of the Franchising Code of Conduct that:

- (a) the Franchising Code now applies to "franchisors" that are incorporated and/or headquartered outside of Australia. However, it is anomalous that the overseas based franchisors are not required to provide to their franchisees or their sub-franchisees as part of their Disclosure Document or disclosure of "materially relevant facts" (section 18 of the Franchising Code) the details of all of the listed events that occur outside of Australia. Is there a reason for this?
- (b) given the purpose of the disclosure document as set out in section 6A of the Franchising Code which includes: "helping the franchisees make a reasonably informed decision about the franchise" and to give information "material to the running of the franchised business", the anomaly should be corrected.
- (c) it could, for example, be material to a franchisee to know whether its overseas based franchisor (or master franchisor) has:
 - (i) been convicted of an offence of dishonesty;
 - (ii) been subject to civil proceedings brought by 10%, or 10, other franchisees regardless of their place of residence;
 - (iii) been the subject of a judgment against it in a matter mentioned in item 4.2 of Annexure 1 or item 3.2 of Annexure 2 of the Franchising Code,or any other of the matters referred to in section 18 of the Franchising Code or the Disclosure Document.
- (d) I recommend that overseas based franchisors be made to comply with the disclosure requirements in the Franchise Code to the same extent and manner as Australian based franchisors.

I am willing to discuss this submission with you.

Yours sincerely

PARK LEGAL SOLUTIONS

John F Park