

Franchise Disclosure Registry Submission

Introduction

Franchise Redress supports the idea of a Franchise Disclosure Registry.

After being in touch with countless franchisees who encountered franchise brands that led them to financial and emotional distress, we believe a public registry with disclosure documents could be helpful in a prospective franchisee's research.

We also have unique experience in developing our own software, and have monitored dozens of government registers over a number of years.

It is our understanding that the register will only hold information for the last year, so our comments are based on the proposed 12 month period. However, we think it is important to note that the register really should cover at least the last three years. If a franchisor had 15 liquidations in a year, that may not seem like a lot if they have 500 stores in their network. But it could be concerning if a potential franchisee found out that in the previous two years there were only three liquidations. Imagine if the ASX only traded on and only had access to the last 12 months on financials.

Information

Our view on the disclosure registry is that the information should be factual with no positive connotations, and help consumers determine if there are possible red flags.

It's not just franchise costs that are important for prospective franchisees to compare. A comparison tool needs to enable consumers to compare a variety of different metrics. When you consider buying a house, cost isn't the only valuable filter. Enabling prospective franchisees to immediately cross out brands with problematic themes would be a useful feature of the registry.

This registry is meant to be the start of a prospective franchisee's research, and it's important to note that many franchisees don't know how to research, where to go, and what information to rely upon. It would be ideal for this registry to provide information that guides consumers on where else to look such as other government resources. It's also ideal to help guide consumers in a way that helps them start to ask themselves many questions.

For instance, clearly outlining how many franchisees of a brand have **liquidated** (as a result of insolvency or suspected insolvency) in the previous 12 months is a metric many franchisees don't think to measure. A franchisee might not realise that franchisee liquidations are an important metric. Including liquidation numbers in the registry helps franchisees do further

research, such as reading liquidation reports to determine why franchisees are terminating their business.

We oppose removing site specific information (given churning and burning was of significant concern in the *Fairness in Franchising Report*). Liquidations are often a matter of public record anyway, so explicitly requiring franchisors to provide this number will help healthy networks shine without championing them.

A lot can be learned from a liquidator report, so franchisees having access to a list of the liquidated entities is key for research. See liquidator report extract below from a franchised store.

My investigations into the affairs of the Company indicate that the primary causes for the failure of the Company were as follows:

- Trading Losses – the Company recorded a trading loss for the 2016, 2017, 2018 and 2019 Financial Years. The loss appears to be attributable to the high costs of sales and expenditure and the Company was unable to generate sufficient margins due to market competition. This was significant for the 2018 and 2019 Financial Years.
- Inadequate Cash Flow – the Company's cash flow statements indicated that for the 2018 and 2019 Financial Years there was a significant drop in cash available to the Company compared to 2016 and 2017. Additionally, the balance sheets indicate that for the 2018 and 2019 Financial Years the Company was trading with a low liquidity ratio indicating they were unable to meet their short-term debts.

Information we believe will assist in improving the quality of a prospective franchisee's research include:

- The number of liquidations over the past 12 months and a list of those entities.
- The amount of litigation by franchisees over the past 12 months and a list of the cases.
- The number of investigations by regulators (Fair Work Ombudsman, ACCC, ASIC, etc) over the past 12 months and subsequent results.
- The amount of litigation by regulators over the past 12 months.
- The number of mediations over the past 12 months.
- The number of sites that changed hands over the past 12 months.
- The cost of the initial franchise fee.
- All initial franchise costs required in the first three months such as training (this will prevent franchisors from burying fees in the franchise agreement and enables franchisees to gauge the true initial cost).

Some of this information might already be available within the Disclosure Document, but we believe having this clearly published in the table will assist prospective franchisees in making useful comparisons right at the start of their research.

Championing Brands

We are strongly opposed to any mechanism for franchisors to champion themselves on this registry. There are plenty of opportunities outside of this registry for franchisors, their peers, and industry bodies to champion brands they think are good.

Unfortunately, even franchise experts and industry groups are unable to pick what a good franchise brand is, given many “award-winning” franchisors have ended up in hot water for misconduct (court, regulator action, regulator investigation, media scrutiny). Our thoughts are, if industry bodies and experts get it so wrong when awarding franchisors, what hope does a consumer have in their research journey?

Given this information will not be vetted, it is dangerous for consumers to see any aspect of public relations or marketing on this registry. Further, franchisors should not be allowed to refer to themselves as “award-winning”: the awards they refer to are not government awards and therefore this label has no place on a government registry. The information should be clinical.

Privacy

Will the franchise disclosure registry omit information about directors of the franchisor because it is classed as “personal information”? If so, this is concerning - for franchisees to do due diligence, it is imperative they know the individuals behind the franchisor. Government registries like the ACNC include the names of people involved in the charity. It is helpful for transparency if personal information about the directors is not redacted.

Design

Having closely monitored dozens of consumer-facing government registries over the past few years, we have observed a number of problems. Some registries are slow, clunky, hard to navigate, and require multiple clicks to get simple information.

Ideally, we would see the registry be similar to the ACNC register. The ACNC is a suitable comparison because it requires charities to upload documents, and also provides their ABN, contact information, and a bit about the organisation including its people. It’s also easy to use and understand. However, for a franchise register, there needs to be a mechanism for consumers to view all franchise systems, filter (in or out) by industry and head company (eg Retail Food Group, Foodco, Craveable Brands, etc), and also compare information.

The ACNC website does not require the user to agree to any Terms and Conditions. The franchise disclosure registry could simply have a prominent disclaimer that says words to the effect of, “This register is not vetted by anyone, and should not be seen as an endorsement of any business”. Terms and Conditions should be available in the menu, just as they are for most government websites, should the user wish to read them.

Requiring a login

We are strongly against the requirement of a login for consumers to access the franchise disclosure registry. Some reasons listed for requiring a login included preventing foreign interference, and to enable Treasury to track and monitor consumers who are using the registry.

A login would only serve as a barrier to consumers who would otherwise use the registry. No other consumer-facing government register we have monitored requires consumers to register their personal , including their name, email address, location, and then having to assign a

password, just to access public information. In our view, it's an unnecessary hindrance if the goal is transparency.

1. Foreign interference: it is not illegal for people overseas to view Australian websites. It is also not illegal for people overseas to become franchisees of Australian franchisors, and blocking access to these people could be discriminatory. A login would certainly not stop a bad actor overseas from accessing disclosure documents if they were so inclined. In our view, a login does nothing to prevent foreign interference.
2. Treasury tracking and monitoring consumers: the government has made it clear that Treasury will not be vetting information provided by franchisors. Given this registry is intended to improve transparency for consumers in the franchise sector, it is our view that it would be a waste of taxpayer money to require Treasury to store, vet, track, and monitor consumers. If the budget allows for vetting, it would be most beneficial for franchisor information to be vetted to ensure consumers are accessing accurate information.

Thank you for the opportunity to provide a submission.

We look forward to having further discussions and providing our thoughts on the disclosure registry given this submission is a basic overview of some initial insights.