



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: BLC:JWlb291021

29 October 2021

Manager
Small and Family Business Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: franchisedisclosureregister@treasury.gov.au

Dear Sir/Madam,

Franchise Disclosure Register

The Law Society of NSW appreciates the opportunity to participate in this consultation on the exposure draft Regulations and Supporting Guide for a Franchise Disclosure Register. The Law Society's Business Law Committee contributed to this submission.

Our comments are general in nature rather than specific responses to the questions set out in the Supporting Guide.

Generally, we support increased transparency in the franchising sector, and consider that the Register will assist prospective franchisees to make a more informed decision before entering a franchise agreement. However, we note that a potential unforeseen consequence of requiring franchisors to make the disclosure document publicly accessible to anyone, anywhere in the world, is that some franchisors may elect not to provide commercial confidence or other sensitive information that they may have currently been providing to potential franchisees, beyond the bare minimum of information required by the Franchising Code.

We suggest that to reduce the initial compliance burden, it would be preferable for franchisors operating with a financial year which does not align with the Australian financial year, to have an extended period to upload their disclosure document to the portal to avoid the need to upload twice within the initial 12-month period.

The Guide states that franchisors may access the Register through an employee's (or agent's) MyGov login. We do not think that use of an individual's personal MyGovID is appropriate for this type of commercial use. This may result in unintended consequences, such as problems with continuity of access if the individual leaves the business. We suggest that the use of a facility such as the Australian Securities and Investments Commission Connect portal would seem more appropriate for business usage.

As the proposed Franchise Disclosure Register will increase the already significant compliance burden on franchisors, it would be helpful if the Australian Competition and

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CONSTITUENT BODY

Consumer Commission or the Small Business Ombudsman could collect information about, and publicly report on, the uptake of usage (and feedback on usability) of the Franchise Disclosure Register.

Yours faithfully,

Juliana Warner
President

