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Franchise disclosure on agenda

Mark Fenton-Jones

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The federal Small Business Minister is looking at the possibility of requiring **franchise** disclosure documents to include more information for potential franchisees.

"We are examining the idea," Fran Bailey said. "I'm all in favour of providing as much information as possible upfront."

Ms Bailey was responding to questions about a meeting she had with small business trainer, Bill Winter.

Mr Winter, a director of Business Developments, which focusses on growth strategies for small to medium enterprises, has held positions as a franchisee, franchisor and dispute mediator in the Office of Mediation Adviser.

His meeting with the minister was to discuss his view that disclosure was the weak link in the **franchise** process.

"The disclosure document does not give enough information to make an informed decision," he said. "You get the very basic information. There's no way you can look behind the real issues of the **franchise**."

But as far as John Brown, the chairman of the national **Franchise** Alliance is concerned, the issue is not whether disclosure documents are up to the job, but the failure of potential franchisees to get advice before the purchase.

Mr Brown described disclosure documents as more than adequate. "They get to the nub of things very quickly."

In a similar vein, Eric Morgan, a director of 22-year old **Franchise** Developments considered that disclosure documents were adequate.

"I'm happy with what goes into it because there is something like 260 points of disclosure in there," Mr Morgan said.

At the core of any dispute, Mr Brown said, is the failure of people who buy a **franchise** to get professional advice.

Based on the number of calls to the **Franchise** Alliance, Mr Brown said that 90 per cent are from people who invested in a **franchise** unit without getting any advice.

"I don't think the issue is whether the disclosure is a good disclosure model. I'm certain that it is and it could probably be enhanced over time. But the foolish mistake far too many people are making is not getting good advice on the way in."

But just how good is the advice behind the **franchise** agreements?

Mr Winter, who is undertaking some private dispute mediation work for four franchisees claimed that some

advisers have a conflict of interest because they are advising on franchises that they receive commissions on.

"When they've gone to buy the **franchise** and spoken with the advisers who are selling them on behalf of franchisors, there is a huge discrepancy in the information they are given. And I've got this opinion that a few of the advisers sell the **franchise** at any cost because they can charge up to \$12,000 commission," he said.

"I personally would like to see a more stringent control. And I would like to see **franchise** consultants who are engaged to sell franchises be held more accountable."

The **Franchise** Council of Australia is writing a member code of conduct that features a set of best practice guidelines, due for publication in April.

The code will apply to franchisors, franchisees, suppliers and advisers. Advisers were included in the voluntary code of conduct that was replaced by the mandatory code of conduct in 1998, which excluded advisers.

Franchise advisers have no formal qualifications. "Basically anyone can call themselves a **franchise** consultant," said Stephen Giles, chairman of the FCA.

He said the FCA had received several complaints in recent years about **franchise** consultants.

In one instance, a franchisor was charged \$40,000 to \$50,000 for a set of documents that were never delivered. In another, consultants acted for both parties of the transaction.

"A lot of **franchise** consultants don't come from any particular background and there's no particular formal qualification. We are keen to make sure that they adhere to appropriate standards of conduct."

At this stage, the FCA has no plans to require formal qualifications to be held by advisers.

But Mr Winter said that the FCA should have an accreditation system. He believes that potential clients of advisers view the FCA logo as bestowing some sort of credibility.

Franchise Alliance's Mr Brown agreed a code of conduct or a membership criteria for advisers, would make it easier for clients to differentiate between their skills.

Advisers can be individuals who have worked in management in a **franchise** system and decide to start up their own business. Or they might be individuals or organisations who have sold a few franchises or seen some **franchise** agreements, and portray themselves as a full service consultancy, when they only have niche expertise.

"It does leave them confused," said Mr Brown, of feedback he has received from prospective clients.

"We have seen a lot of people who come and go. So the actual issue from our point of view is how does a prospective franchisor, or indeed a franchisee, actually sort the good guys from the not so good guys."

Franchise Alliance became accredited with the Institute of Management Consultants to provide "some element of our credibility that is recognised by a professional body outside the FCA because they don't have an accreditation process".

KEY POINTS

- * Bill Winter says franchises should give more information to buyers.
- * The **Franchise** Alliance says failure to get advice is a bigger issue.

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