



29 September 2023

Dr Michael Schaper
Franchising Code Review Secretariat Unit
Treasury
Via email: franchisingreview@treasury.gov.au

Dear Dr Schaper

Review of the Franchising Code of Conduct

The Australian Banking Association (**ABA**) welcomes the opportunity to provide feedback to the review of the Franchising Code of Conduct (**Code**).

ABA members are committed to the success of Australia's franchisors and franchisees, who play an important role in our economy.

The ABA supports retention of the Code and the Franchise Disclosure Register and acknowledges the important role these tools have in protecting both franchisors and franchisees, which are often small businesses. Entering a franchising arrangement is a significant legal and financial undertaking and it is sometimes the case that individuals who are attracted to franchising are also newer to business.

Franchisees should be encouraged to undertake due diligence to ensure they are well informed about the risks and responsibilities, as well as their rights, prior to entering into their chosen franchising agreement.

The ABA recommends the Code highlight the importance of prospective franchisees obtaining legal and financial advice prior to entering into a franchising agreement for franchise systems. Under the current Code, franchisees are either required to receive advice, or sign a statement that they have been told that advice should be sought but they have decided not to seek it. This provides franchisees with the option to not seek independent professional advice prior to undertaking contractual obligations.

The ABA encourages the Government to consider ways to improve franchisees' access to key business adviser details, such as by updating, expanding and promoting government's 'adviser finder' list available at the website www.business.gov.au, to make it easier for franchisees to seek advice from subject matter experts in franchising.

The ABA notes the increasing prevalence of cyber security risks, including scams, fraud, data security and breaches, have the potential to significantly disrupt business operations. As Australians increasingly move towards engaging with a digital economy, cyber-attacks can cause significant inconvenience or financial loss and can also have an impact on the viability of a business. While this is an economy-wide challenge and the Government has a role to support small business, the Code should also encourage all parties to have appropriate cyber capabilities and tools in place to help protect them from future risk.

If you have any questions in respect of this letter or would like further information, please do not hesitate to contact me on ellen.choulman@ausbanking.org.au or 0430 320 701.

Yours sincerely

Ellen Choulman
Director, Business Engagement and Policy