



29 September 2023

Independent review of the Franchising Code of Conduct

Submission to The Treasury

Introduction

The Business Council of Co-operatives and Mutuals (BCCM) welcomes the opportunity to respond to the independent review of the Franchising Code of Conduct (the Code).

The BCCM is the national peak body representing co-operatives and mutuals in all industries. Eight in 10 Australians and 160,000 businesses are members of at least one co-op or mutual. BCCM's membership includes co-ops that provide marketing and/or purchasing services to small retail businesses such as Go Vita (health food retail), Rapid Group (cleaning supplies), Capricorn Society (automotive repairs), Master Butchers Co-operative (meat) and ILG (liquor).

Co-ops and mutuals are businesses that are owned and democratically controlled by consumers, producers (small businesses) or workers. They exist to benefit these groups economically, socially and culturally. In addition, they benefit the wider community through enhanced competition in markets, local employment opportunities and allocation of surpluses to local causes and organisations.

The BCCM strongly supports the clarification of the position of co-operatives in relation to the Franchising Code over recent years and this is the focus of our submission, including our response to a specific consultation question below.

Co-operatives are a distinct model for independent small businesses to work together to access scale benefits without losing their autonomy. The model is an alternative to both corporatisation (i.e. sale/merger of smaller businesses into a larger, integrated competitor with its own back office, wholesale and marketing departments) and traditional franchising (i.e. the franchisor being an investor-owned business that franchisees do not have any control over) for small businesses.

The main element that distinguishes co-operatives from these other models is democratic control on a one-member one-vote basis by members. As small business owners collectively control their co-operative, it operates in their interests and the potential for conflict between members and the entity is lessened in comparison to the relationship between franchisee and an investor-owned franchisor.

The exclusion of co-operatives from the Code is on this basis (applying insofar as a co-operative actually gives a member voting rights) and represents an appropriate and important recognition of the difference between co-operatives and franchising that supports a diversified Australian economy that works in the interests of consumers and smaller businesses.

The BCCM would be pleased to provide further information on any matters raised in this submission.

Response to Consultation Questions

5. Have the amendments regarding the exclusion of cooperatives from the provisions of the Franchising Code effectively clarified that they fall outside the scope of the Code?

Yes, the amendments have effectively clarified the treatment of co-operatives in relation to the Franchising Code.

The BCCM believes the amendments accurately reflect the underlying policy intention: namely, that co-ops are a distinct model that, due to their democratic basis, do not exhibit the same power imbalances as investor-owned franchise networks and therefore should generally not be subject to the Code.

In addition, there is now clear treatment of co-operatives incorporated both under state and territory co-operatives legislation and the Corporations Act.

Contact details:

Melina Morrison, CEO

E: melina.morrison@bccm.coop

M: +61 410 902 656

Business Council of Co-operatives and Mutuals (BCCM)

GPO Box 5166, Sydney, NSW 2000

E: info@bccm.coop | P: +61 (02) 8279 6050 | www.bccm.coop