

## **Correspondence from Small Business Minister Billson to the West Australian Small Business Council COSBA**

**From:** "Billson, Bruce (MP)" <[B.Billson.MP@aph.gov.au](mailto:B.Billson.MP@aph.gov.au)>

**Date:** Sun, 11 Jan 2015 03:40:50 +0000

**To:** Oliver Moon COSBA

Good afternoon Oliver,

Thanks you for your letter of encouragement about our Government's reformed, strengthen and streamlined Franchise Code.

As you know, this has been a particular priority for me both from Opposition and since my appointment having long recognised the deficiencies in the previous Code that the previous Labor Government was unwilling to address.

Some of the main features of the new Code are:

- the introduction of a statutory obligation on franchisors and franchisees to act in good faith in their dealings with each other;
- penalties will apply to conduct that breaches key elements of the Code
- a streamlined disclosure process that removes unnecessary information and makes the disclosure document clearer and easier to understand;
- improved transparency in how marketing funds are used and administered;
- more flexible and stronger enforcement options for the Australian Competition and Consumer Commission (ACCC), including the introduction of civil penalties for serious breaches of the new Code and the ability to issue an infringement notice where appropriate;
- a new provision dealing with how internet sales are treated
- an information statement that will give prospective franchisees essential information about the nature of franchising before they make a commitment to sign an agreement; and
- a reasonable and balanced limitation to the enforceability of restraint of trade clauses, that still recognises the intellectual property of franchisors.

Guidance material on the new Code has been prepared by the ACCC to support its effective introduction for franchisors and franchisees.

My known resolve and clear purpose ensured that all parties, including those who have previously impeded change, engaged in the consultative process in a collaborative way enabled the new Code to be introduced in a 'no surprises' way.

Your concerns about the status and methods for determining independent contractors and discerning between self-employment and 'employee' is understood and shared.

That's why my work program and priorities for this year include the implementation of our election commitment to support and protect the rights of independent contractors and the self-

employed. I am concerned about ATO over-reach in its interpretation, the resulting denial of ABNs, tax office guidance tools not accurately reflecting accepted common and statute law interpretations, limited recognition of longer term professional services project contracting and how some of the definitions in the Independent Contractors Act reflecting older economy concepts such as advertising in a newspaper. I look forward to CoSBA's input and consultation.

Also, it is worth noting that I will also be finalizing the implementation of our election commitments to extend 'unfair contracts terms' protection to small business and the creation of the Small Business and Family Enterprise Ombudsman this year.

Looking forward to working with you and CoSBA members as we build on the progress and achievements of 2014 with further purposeful action and policy reform to energize enterprise in 2015.

Warm regards,

Bruce