The Franchise Seesaw: Thoughts on the Balance of Power and Control in Australian Franchises

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Abstract

The franchisor’s need for power over its franchisees and control of its brand underpins many of its decisions. Power and control can be calibrated appropriately or used oppressively. Power and control have been examined by numerous business academics. In this paper we ask what the law can add to the debate. We look at types of power and control, and identify retail franchisees trading from conventional bricks and mortar stores as particularly vulnerable to a franchisor’s opportunistic abuse of power or control. We draw attention to new threats to the franchisor’s ability to control franchisees: being Gen Y and online retailing. We identify the key legally sanctioned levers of power and control in franchising. The tools that the law provides for calibrating power and control are briefly inspected, as are levers outside the law. We suggest that the balance of power and control is not static; it tips towards one party or the other periodically throughout the franchisor’s relationship with its franchisees. Finally, we conclude that the law provides a rich source of data to inform ongoing research about power and control in franchise relationships.