

From: [Bill King](#)
To: [NASAA Comments](#)
Cc: [Theresa Leets](#); bill.beatty@dfi.wa.gov; [Erin Houston](#); matt@ifpg.org; ["Don Daszkowski \(don@ifpg.org\)"](#)
Subject: [EXTERNAL]An Open Letter re: Proposed Model Franchise Broker Act
Date: Thursday, June 13, 2024 5:03:29 PM
Attachments: [image001.png](#)
[image006.png](#)
Importance: High

I'm contacting you today to share my apprehension about the proposed Model Franchise Broker Act, drawing from my 26-year experience as a professional franchise consultant. I am Bill King, a respected IFPG (International Franchise Professionals Group) member. Within IFPG, I hold the position of Chairman of the Ethics Committee and am a member of the Executive Committee. I am fortunate to have gained extensive expertise in our industry, including personal business franchise ownership, co-founding my own consulting organization, franchisor development management, and exposure to more than several of the industry's most influential referral groups.

I am proud to have helped many people change their lives over this time by providing quality career options through an introduction to entrepreneurship, specifically franchise business ownership. In many years of practice, I have never "sold" a franchise to any of the hundreds of candidates I have engaged, but instead, I have educated, informed, and provided useful information regarding the franchise industry and specific franchise concepts. I was never in a position to unduly influence a franchisor to award a franchise license to any candidate, nor did I ever receive compensation from any party other than earning a success fee when a successful transaction occurred and resulted in the candidate being awarded a new franchise license.

With my extensive experience in the industry, I can confidently state that the proposed Model Franchise Broker Act by NASAA is the most significant threat we have ever faced. I implore you to reconsider this proposal and make amendments that will safeguard the interests of the many responsible franchise consultants who have been instrumental in the sustained growth of our industry. The time for action is now, as the implications of this act could be detrimental to our profession and the franchise industry as a whole.

Please consider.....

1. Change the undeserved moniker used to define our role from "franchise broker" (or similar). We neither act as nor provide client services associated with the common understanding and definition of this term, especially any sales responsibilities and personal involvement in completing a sales transaction. We are pure "referral agents," "consultants," or "third-party marketing professionals" contracted by franchisors to find and qualify prospective candidates and in no way directly involved in the franchisor's sales process, including the acceptance or not of the candidate by the franchisor. As such, the consultant should be exempt from the requirements and liabilities expressed in this legislation.
2. Concerning registration requirements, it would be expensive and unnecessary to expect a consultant to shoulder the burden of both the economic and documentation required as a small business owner, especially if this becomes a requirement of multiple other states. The mere complexity of multiple filings and the increased investment cost to a consultant would almost certainly reduce lead flow and therefore retard the growth of many franchise concepts as well as force many good consultants to look to other careers. The quality of such information would also be suspect, given the difficulty of maintaining each state's different reporting requirements if adopted by multiple jurisdictions. Perhaps a national certification would accomplish this objective without the excessive cost, and territorial restrictions would suffice.
3. The suggestion of disclosing a candidate's personal and confidential information directly

violates a person's right to privacy. A consultant's process of qualifying a candidate is based on developing an abundance of trust, which is the core element of building productive rapport. This requirement would almost certainly erode that key valued issue within the consultant/candidate relationship.

4. The disclosure of consultant compensation is fundamentally unnecessary, and one might be hard-pressed to find any other industry, profession, business model, or career choice where this is required for any reason, especially under the pretense that the candidate's best interests are served. Our success fee is simply a part of the marketing expense the franchisor builds upon the sustainable financial model for acquiring the licensing opportunity. It should be enough for the candidate to understand he is not responsible for this cost, and more importantly if the candidate elects not to use our services, he is not afforded a "discount" in the amount of our success fee to be rebated. Further, there is no accurate way to disclose these amounts given the many purchase options a candidate may be exposed to, i.e., master franchising, area development, multi-unit, etc., before his investment decision is made, but never before. We would certainly add confusion when you present 3-4 different brands that each may have 4+ commissions for, and we would be required to present this overwhelming amount of information when it really is irrelevant to the due diligence process. This point alone may invite nefarious behavior in an attempt to accommodate a "desperate" seller willing to "negotiate" a lesser license cost by side-stepping a consultant's representation.
5. I predict a significant increase in litigation activity, directly the result of now naming franchise consultants to be included in any litigious issue simply because it presents another financial leverage to anyone who brings such a suit. This will raise the insurance costs necessary to cover this excessive risk, which may be why a consultant would leave our industry rather than bear this expense just to be a "referral agent." Even for the innocent, a suit must be defended at great personal expense. At some time, we have all witnessed the franchisee claiming the system somehow failed him and deterred him from finding success when, in reality, they themselves failed the system. Whatever the truth, it becomes expensive to defend and protect oneself from these frivolous legal actions, and this specific language would invite more of this activity.

I fully and completely understand that this, as in any other industry, has or has had what may be more accurately described as a few limited and infrequent failures within our system and what I assume is unacceptable rogue behavior by a few industry players, but I honestly, believe this legislation as proposed represents a far-reaching, overly aggressive, cure to so adversely affect the good, well-intentioned, professionals as a remedy for the very few who don't demonstrate acceptable ethical standards.

Thank you sincerely for your consideration of these comments.

Bill King
Axxiom Franchise Advisors, LLC
bking@4axxiom.com
770-843-9950

Many thanks,

Bill King
Axxiom
Franchise Advisors, LLC

bking@4axxiom.com

www.axxiomfranchiseadvisors.com

770-843-9950 C

804-294-4853 F

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