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Sent: Thursday, June 13, 2024 2:15 PM

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Subject: Public Comments on Proposed NASAA Model Franchise Broker Registration Act (the "Act")

Dear NASAA Team,

I have extensive experience as a franchise broker. I am writing to provide feedback on the NASAA

Model Franchise Broker Registration Act. Thank you for allowing me to share my

insights based on years of involvement in the franchise industry.

While the intention to ensure ethical practices in franchise brokering is commendable,

the current draft of the Model Act introduces complexities that might inadvertently **an unnecessarily** hinder

the franchise sales process. Here are my observations and suggestions:

Franchise brokers play a vital role in matching prospective franchisees with the right

franchisors. Ethical brokers prioritize their clients best interests, helping them find

suitable franchise opportunities. Brokers are akin to employment recruiters; they

facilitate introductions without making final decisions on franchise awards and are

compensated only when a franchisor awards a franchise.

The current draft of the Model Act may unintentionally complicate the franchise

discovery process for prospective franchisees. Requiring multiple disclosure documents

can create unnecessary confusion and anxiety, potentially deterring individuals from

pursuing franchise opportunities.

Key Concerns and Suggestions

Section 2: Definitions

The distinction between a franchise broker and a **franchise** representative

requires clearer definitions, **as they are very different roles and are compensated differently.**

Licensing for brokers, including specified training hours similar to the Certified Franchise Executive (CFE) program, would be beneficial.

However, the term representatives is too vague and will be misinterpreted.

Section 3: Prohibited Practices

While it is sensible to prevent unregistered / aka untrained brokers from engaging with

prospective franchisees, imposing the responsibility on franchisors to verify broker

registration adds unnecessary administrative burden. A centralized, government-maintained database would be essential for this, though it might be impractical to implement.

Section 4: Registration

The term material change needs a precise definition. Significant changes, such as

criminal history or new litigation, should be considered material. However, frequent

updates for minor changes would be burdensome and unnecessary.

Section 5: Disclosure Obligation

The mandate to disclose all compensation is challenging. Referral fees often change,

necessitating frequent updates to disclosure documents, which can lead to confusion.

Disclosing a typical referral fee range would be a more practical approach, balancing

transparency with administrative feasibility. This disclosure should be within the

franchisor's FDD, not additional paperwork passed to the franchise broker.

Client List Disclosure

Requiring brokers to disclose their client lists raises significant confidentiality concerns

and could undermine trust between brokers and clients. This requirement might also

lead to misuse of information and does not clearly benefit prospective franchisees. The

rationale for this requirement is not well-defined in the proposed act.

Record Retention

The proposed requirement to retain records for 10 years, even after business closure, is

excessive. The statute of limitations for fraud and misrepresentation ranges from 5-7

years. Even the IRS only requires record retention for 7 years. A 10-year requirement is

overly burdensome and should be reconsidered.

Education and Licensing Requirements

To promote integrity among franchise brokers, national education and licensing

requirements should be implemented. Mandatory training programs, similar to the CFE,

would ensure brokers adhere to ethical standards and industry best practices. National

licensing would create a consistent standard of professionalism and accountability,

benefiting the franchise sector. Breaking this down to a state by state level will be

burdensome and financially prohibitive.

Conclusion

The Model Act should protect prospective franchisees while fostering an environment

conducive to ethical franchise brokering. The current draft introduces complexities that

could discourage potential franchisees and impose undue burdens on brokers and

franchisors. I urge the NASAA to consider these suggestions to develop a more

balanced and effective regulatory framework.
Thank you for considering my comments.

Thanks,

Bill

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