

Submission to Parliamentary Inquiry into the Operation and Effectiveness of the Franchising Code of Conduct

4 May 2018



ABOUT VACC

The Victorian Automobile Chamber of Commerce (VACC) is Victoria's peak automotive industry association, representing the interests of more than 5,000 members in over 20 retail automotive sectors that employ over 50,000 Victorians.

VACC members range from new and used vehicle dealers (passenger, truck, commercial, motorcycles, recreational and farm machinery), repairers (mechanical, electrical, body and repair specialists, i.e. radiators and engines), vehicle servicing (service stations, vehicle washing, rental, windscreens), parts and component wholesale/retail and distribution and aftermarket manufacture (i.e. specialist vehicle, parts or component modification and/or manufacture), and automotive dismantlers and recyclers.

In addition to VACC, its sister organisations – the Motor Trade Associations, represent the automotive industry for their respective states. The VACC is an active member of the Motor Trades Association of Australia MTAA and contributes significantly to the national policy debate through Australia's peak national automotive association.

CONTACT DETAILS

Steve Bletsos

Senior Research Analyst
Industrial Relations, Policy & Engagement

VACC

Level 7 | 464 St Kilda Road | Melbourne Vic 3004
P: 03 9829 1143 | M: 0438 385 881 | F: 03 9820 3401 | W: vacc.com.au

Contents

- About VACC 2
- Background..... 4
- Methodology..... 4
- Recommendations 5
- VACC Response to Terms of Reference items..... 6

BACKGROUND

Around one-third of all businesses operating within Australia's automotive industry (23,000 businesses) are franchise businesses¹ that contribute approximately \$12.3 billion in industry value-added to the Australian economy. Automotive franchisees include:

- Car dealerships
- Car and truck rental
- Motorcycle dealers
- Farm machinery and agricultural equipment dealers
- Automotive servicing and mechanical repairs
- Automotive body repairs
- Fuel retailers
- Tyre retailers
- Motor vehicle parts and accessories retailers
- Outdoor power equipment retailers
- Marine dealers

METHODOLOGY

To inform its submission, VACC utilised a series of intelligence gathering processes. These included:

1. A national survey of automotive franchisee businesses
2. Focus group interviews with VACC franchisee member businesses
3. VACC member telephone interviews
4. Historical evidence gathered post the Wein Review

The national survey (*Franchising Code and Oil Code of Conduct Survey 2018*), was conducted in partnership with VACC's sister organisations – the Motor Trade Associations - in each state/territory. The survey collected information on each of the Terms of Reference items and other related matters.

Focus group and telephone interviews were conducted by VACC with franchisee member businesses operating within both the Franchise Code and the Oil Code of Conduct. These interviews collected qualitative information from automotive franchisee operators.

¹ Based on ABS data

RECOMMENDATIONS

VACC advocates that, due to the complexity and substantial investment levels that characterise the automotive industry, including the systemic failures of the Franchise Code and Oil Code of Conduct as detailed in this submission, there is a strong necessity for a new code of conduct. This code of conduct should be tailored specifically for the automotive industry. This development of this code should provide a fair and equitable platform from which both franchisors and franchisees can operate successfully.

VACC therefore recommends that:

A specific Franchise Code of Conduct be developed for the automotive industry as a matter of priority that encapsulates the following:

- Takes into consideration the sophisticated nature of business, depth and breadth of operators in the industry, the range of automotive sectors i.e. automotive covers, but not limited to, cars, motorcycles, commercial vehicles, farm machinery etc;
- Acknowledging the rapid advancement of technological change throughout the industry such as the introduction of electric and autonomous vehicles;
- The need for an independent party to oversee the development and operational functionality of the agreement. Current agreements have been drafted by franchisors and are heavily weighted in their favour;
- The agreement should be written in “Plain English” and avoid complex legal language;
- Acknowledging the large financial expenditure required by automotive franchisees and as such there should be a fair and equitable structure under which both parties can operate successfully;
- In view of the significant financial investment required, it is necessary for full disclosure of audited financials, including cash flow projections, return on investments and operating costs of the business;
- The term of the lease for an automotive franchise premises is to correspond with the term of the franchise agreement. The franchisor is not to be unfairly evicted off the premises should the agreement be terminated prior to the expiry of the lease;
- Geographical exclusivity is to be explicit in the agreement and cannot be changed without the consent of both parties. There needs to be the option of being able to negotiate an exclusive Primary Market Area (PMA) territory for the term of the agreement;
- The agreement should state that the franchisee has the option of using a range of suppliers, without associated financial penalties. They are not to be limited to those indicated by the franchisor;
- Termination provisions should be clearly stated in the agreement, including the fair and equitable treatment of franchisees. The buyback of stock and equipment at a fair price that is not heavily discounted and in favour of the franchisor. There should also be provision for payment of good will generated by the franchisee;
- Upon termination of agreement the franchisor should not exercise undue restriction on the trading of former franchisees;
- The establishment of an effective dispute resolution process, without the need for expensive litigation. This may include the establishment of fund specifically designed to assist franchisees with this ever-changing legislative environment.

VACC RESPONSE TO TERMS OF REFERENCE ITEMS

(a) The operation and effectiveness of the Franchising Code of Conduct, including the disclosure document and information statement, and the Oil Code of Conduct, in ensuring full disclosure to potential franchisees of all information necessary to make a fully-informed decision when assessing whether to enter a franchise agreement, including information on:

(i) likely financial performance of a franchise and worse-case scenarios;

Results obtained from the *Franchising Code and Oil Code of Conduct Survey 2018* show that most franchisee respondents (85%) had received the following documents:

- The Information Statement regarding the franchisor;
- The disclosure document;
- Other relevant legal documents (e.g. undertakings within the Franchise Code).

Whilst a high proportion of respondents received the disclosure documents, the overwhelming consensus was that documents fell well short of their intended purpose. According to the Australian Competition and Consumer Commission (ACCC), *'The purpose of a disclosure document is to give a prospective franchisee key information about the franchise system, and an existing franchisee current information about the running of the franchise'*. In this respect, due to the complexity of operating an automotive franchise, many franchisors through their legal entities have bypassed their responsibilities in relation to the code, by referring to the 'operation manual'. The manuals contain important information concerning rules, processes and restrictions and these details should be contained within the disclosure document according to respondents. It is also claimed, that the use of legal phrases within these manuals such as *'this may change from time to time'* is totally unacceptable and should be avoided.

A major deficiency was also raised regarding the supply and transparency of financial information. Almost half of all survey respondents (46%) reported that they did not receive any financial information within their franchise agreement. This included no information on expected earnings (or loss), such as gross profits or return on investment for the franchisee. Information on business costs and expected outlays were also reported as largely missing, including the cost of upgrades to premises and other investments. An even higher proportion of respondents (78%) reported that they had not received any information in their agreement on worse-case financial scenarios for their business. These responses were equally common across businesses operating within the Franchise Code and the Oil Code of Conduct.

Of those respondents that did receive financial information in their agreements, the quality of this information was described as generally poor. The financial information did not relate to the specific franchisee operation and primary market area of the franchisee, but rather consisted of broader industry averages and benchmarks that were deemed of little value in determining the true financial performance of the respective business. Despite many requests for more specific financial data, no further information or assistance was provided by franchisors.

Focus group interviews conducted by VACC with franchisee members largely confirm the results obtained in the *Franchising Code and Oil Code of Conduct Survey 2018*. Participants expressed strong views that key financial information was either absent from their agreements, or was of a quality that was meaningless in terms of providing a proper financial insight into the business.

The survey data and interview evidence compiled from franchisees, both point to a clear deficiency in supply, quality and transparency of financial information contained within franchise agreements relating to the automotive industry. These issues do not appear to be confined to any particular sector of the automotive industry, but are observed to be systemic across all sectors of the industry and within both the Franchise Code and Oil Code of Conduct.

The provision of credible and audited financial information relating to the performance of the business is critically important in helping potential franchisees make a fully-informed decision when assessing whether to enter a franchise agreement.

VACC believes that both the absence of key financial information and deficiencies in the quality of financial information in individual agreements within the automotive industry are undesirable and undermine the operation and effectiveness of the Franchise Code and the Oil Code of Conduct.

(ii) The contractual rights and obligations of all parties, including termination rights and geographical exclusivity

Evidence obtained through the *Franchising Code and Oil Code of Conduct Survey 2018*, relating to the disclosure of the contractual rights, termination rights and geographical exclusivity reveals the following:

- More than one-third (36%) of respondents reported they did not receive full disclosure of all contractual rights in their agreement, and consequently were unaware of their full rights and obligations;
- More than half (59%) reported that they were unaware of their rights upon termination;
- More than half (54%) did not have a clear understanding of the obligations and entitlements of each party at the end of the franchise term;
- Over one quarter (26%) reported that their agreements did not include statements regarding geographic exclusivity, i.e. defined primary market areas (PMAs);
- Of those franchisees that did have PMA statements in their agreement, over one-third (36%) reported that the PMA allocations had been changed without their consent or agreement, and with no compensation or consideration of key performance indicators (KPIs).

The survey results indicate that the disclosure and understanding of contractual rights and obligations remains 'patchy' within agreements pertaining to the automotive industry. Furthermore, there is a general lack of understanding of respective rights and obligations by franchisees, and this is often due to the complexity of wording contained within agreements.

Focus group interviews and discussions held with franchisee operators also support the notion that the wording contained within agreements on contractual rights is often complex, with little further explanation or assistance provided by the franchisor. At times, franchisees had been told to seek their own legal advice regarding contractual rights, termination and other matters, with no further assistance being offered by the franchisor.

Franchisees have also argued that there is a strong power imbalance embedded within their agreements that is weighted heavily in favour of the franchisor.

This is demonstrated by the fact that regardless of what is contained in individual agreements, operational changes are regularly made by franchisors within the automotive industry, to the detriment of many franchisees.

In one notable example, a vehicle dealer claimed that there was a statement embedded in their agreement, that if one dealer from anywhere in Australia went broke or owed money, the franchisor could deduct money from every other dealer in Australia to make up for the loss. There was also no limit as to how many times this could be done, and no limit as to the amount of money that could be charged each time.

In another example, a vehicle parts retailer that had been a franchisee for over 30 years, claimed that over that whole time their agreements had never been explained to them, and now that they were in the process of selling, the franchisor is demanding 10% of the sale. This provision was nowhere to be found in their agreement.

Other long term automotive franchisees whose agreements has not been updated for over 10 years, also report of unreasonable demands by franchisors, with penalties imposed by the franchisor for non-compliance. Such demands include:

- Changes to the PMA without consultation or discussion;
- Extensive capital build requirements without an economic analysis of viability;
- Requirements to take on additional services that were not within the original agreement;
- Threats of termination of the franchise agreement for non-compliance.

Automotive franchisees are often left with little choice but to either accept these changes or walk away from the agreement.

VACC therefore argues there is compelling evidence that indicates the following:

- That there is a serious compliance problem in relation to the supply and transparency of contractual information by franchisors within the automotive industry;
- There is a strong power imbalance within automotive franchise agreements that is weighted heavily in favour of the franchisor with evidence of systematic abuse;
- For many franchisees, there is little prospect in obtaining recourse for unfair and unreasonable demands levied by franchisors, due to the cost of challenging these demands in court, and the possibility of the agreement being withdrawn as such.

(iii) the leasing arrangements and any limitations of the franchisee's ability to enforce tenant rights

Focus group discussions held by VACC reveal that for many, leasing arrangements are not an area that is clearly defined in either the Franchise Code or the Oil Code of Conduct. Franchisees have expressed the view that if they are required by the franchisor to lease a premise to operate the franchise or part of the franchise, then the franchise term should correspond with the term of the lease. In reality however, this is not the case as franchisees are often evicted from their premises upon termination of the agreement, even though their lease term has not expired, which is an undesirable outcome.

VACC would therefore support the instigation of reforms similar to tenant's rights within general residential lease agreements, where eviction is not possible until the expiry of the lease term. This would allow for greater business certainty for franchisees and avoid potentially costly and stressful outcomes as a result.

(iv) the expected running costs, including the cost of goods required to be purchased through prescribed suppliers

Evidence obtained by VACC through the *Franchising Code and Oil Code of Conduct Survey 2018*, indicates that the supply of information on expected running costs, including the cost of goods purchased through prescribed suppliers, is overwhelmingly lacking within franchise agreements relating to the automotive industry.

The survey data shows that:

- Over 78% of automotive franchisees did not have statements in their agreement regarding the expected running costs of the business; and
- More than half (58%) of respondents did not have statements in their agreement concerning the cost of goods required to be purchased through prescribed suppliers.

VACC views this disregard for the provision of business costs information by franchisors as a matter of serious concern. Business running costs are a key metric that assists potential franchisees to evaluate business profitability and thereby make an informed decision as to whether to enter a franchise agreement. Consequently, such information should be mandatory and enforceable within agreements relating to both the Franchise Code and Oil Code of Conduct.

Many franchisees have expressed to VACC the frustrations and personal impacts they have endured as a result of entering into agreements that had no detail on business running costs, and with no willingness on the part of the franchisor to provide any further assistance in this regard. Among these impacts include:

- Fuel retailers/convenience store operators being forced to buy goods and services from prescribed suppliers at higher prices than what can be obtained elsewhere, thereby reducing their competitiveness and profitability;
- Motorcycle dealers and new car dealers being unable to have a say in what models or quantities they stock in their showroom. Cost penalties are also imposed by franchisors for items that are not on a prepared list, thereby reducing business profitability. Franchisees also have no control over the store layout, display or signage;
- Motor vehicle and farm machinery dealers being instructed to participate in un-profitable service and warranty campaigns and to hold stock that doesn't sell in their PMA;
- Constant demands made by franchisors for upgrading of premises for car, motorcycle and farm machinery dealerships at huge cost, often in the millions of dollars, with little opportunity to recoup the cost of the investment. In one example, a franchisor advised a franchisee that renewal of their agreement was imminent and encouraged the franchisee to acquire new premises, only to renege on the deal.

The evidence points to a widespread disregard for the supply and transparency of information on expected running costs in agreements across the automotive industry. This places an unfair and unacceptable burden of risk on potential franchisees, often leading to irrational and regretful decision making on their part, by entering an agreement based on good faith. The compulsion for franchisees to purchase goods and services from prescribed suppliers at inflated or above market prices, only compounds the overall lack of competitiveness, profitability and sustainability of many automotive franchisees.

VACC argues that these actions serve to undermine the effective operation of the Franchise Code and Oil Code of Conduct. There is an urgent need for mandatory, audited and enforceable provisions relating to the supply of business costs information for the automotive industry.

(b) The effectiveness of dispute resolution under the Franchising Code of Conduct and the Oil Code of Conduct

Survey evidence compiled by VACC indicates that the overwhelming majority of respondents (95%) have never activated the dispute resolution provisions mandated within the Franchising Code and the Oil Code of Conduct. This response however, does not constitute an endorsement of the effectiveness of the dispute resolution process.

Respondents cited the following reasons as to why they avoid engaging in conflict with franchisors outright:

- There is a substantial power imbalance within franchisor/franchisee agreements and many franchisees are fearful and feel vulnerable in engaging in disputes with their franchisor, due to the fear of termination of the agreement. This is particularly the case in regional areas and often results in franchisees being bullied into settlements;
- Franchisees generally lack the financial resources to engage in legal disputes against large multinational subsidiary franchisors;
- There are claims that multinational subsidiary franchisors have no intention of using dispute resolution under the Franchising Code or the Oil Code of Conduct and will proceed with their agenda, often leading to termination. The recent decision by Caltex to terminate its agreements with affiliated fuel retailers by 2020 is cited as a prime example of such behaviour;
- There is a perception in the automotive industry that all regulators are powerless or lack the resources to assist franchisees in disputes against large multinational franchisors.

(c) The impact of the Australian consumer law unfair contract provisions on new, renewed and terminated franchise agreement entered into since 12 November 2016, including whether changes to standard franchise agreements have resulted.

VACC believe that as the unfair contract provisions relating to small businesses within the Australian Consumer Law (ACL) have only been in place for just over a year, that insufficient time has elapsed to assess the full impact of the provisions on franchisees operating within the Franchise and Oil Code of Conduct. It is the view of VACC however, that given examples of bullying and punitive behavior, sometimes applied by franchisors, franchisees will be reluctant to antagonise franchisors on matters of fair contract where they feel it may jeopardise the winning of a franchise or the extension of an existing agreement.

(e) The adequacy and operation of termination provisions in the Franchise Code of Conduct and the Oil Code of Conduct

The results of the *Franchising Code and Oil Code of Conduct Survey 2018* show that 29% of respondents have had an agreement either terminated or not renewed by the franchisor. This is a significant figure and demonstrates the power of the franchisor to exercise their discretion in respect to termination or non-renewal of an agreement.

Under this scenario, the franchisee has no redress as the termination clauses are skewed in favour of the franchisor. There are no specific provisions in the agreement outlining the avenues that they can access to address disputes and find an agreeable and enforceable solution or outcome.

The franchisees are often placed in a vulnerable position when a dispute arises as they do not have the substantial resources, both financial and legal to match the resources available to the franchisor. The franchisors have the capacity to employ tier one legal firms to draft these agreements and make them heavily skewed in favour of one party at the expense of the other.

Once these agreements are terminated, the power of the franchisor is further exercised as the franchisees are bound by restrictive covenants. These restrictions may include the preclusion of the franchisee employing previous staff for a period of twelve months, without the written consent of the franchisor. There are often further restrictive covenant clauses that state that after termination of the agreement, the franchisee must not be engaged in any shape or form with any individuals, corporations, firms or associations that appear on the existing client database, nor can they conduct a business in the same geographical location. In short, they cannot access the database of customers that they themselves established, whilst governed by the agreement.

In addition, there are no provisions that compel the franchisor to compensate the franchisees on capital expenditure outlays associated with establishing the business, nor are there any provisions for profits to be afforded to the franchisees.

These points are further substantiated by the survey respondents who cite their vulnerability as they are at the mercy of the franchisors. They feel that their businesses and their livelihoods are threatened. The franchisors yield substantial power as the franchisees cite personal disagreements, unrealistic conditions and often sales targets that cannot be met, all which have the purpose of termination or at a minimum threatening the relationship between the two parties.

In cases where there is a dispute between the parties, the franchisee feels powerless as they do not have the resources both financial and legal to counteract the tactics employed by the franchisors. This is demonstrated in that over 70% of survey respondents stated that they did not seek advice, whether it be financial or legal in response to their franchise agreement either being terminated or not renewed. Similarly, 60% of survey respondents advised that they were not aware of the termination or non-renewal terms beforehand.

More than one-third of survey participants also stated that they had further restrictions imposed on them, upon termination of the agreement. These restrictions included not being able to access customer databases, no rights to continue the business and trade in their own right and being compensated to the subjective value of the business as determined by the franchisor and not its true market value as determined by a third party.

Almost 60% of survey participants also stated their non-satisfaction with the terms of settlement upon the agreement being terminated or not-renewed. A common theme amongst the participants was that they did not have the option of not-renewing their agreement and thus being forced to continue with the business.

Franchisees also stated that the franchisor would not re-purchase or provide any compensation for parts or equipment beyond a specific age. In situations where they agreed to re-purchase stock or equipment, it was purchased at below cost, thus causing the franchisee financial loss. Furthermore, there are also obstacles in having franchisors agree as to who the franchisee can sell the business to.

Based on the evidence presented, VACC believes that the termination provisions in the Franchise and Oil Code of Conduct are inadequate. In many cases there is a demonstration of a substantial imbalance of power between the parties, and this imbalance strongly favours the franchisor. This leads to inequitable outcomes upon termination of an agreement and therefore undermines the effective operation of both Codes of Conduct respectively.

(f) The imposition of restraints of trade on former franchisees following the termination of a franchise agreement

Almost 40 per cent of respondents to the *Franchising Code and Oil Code of Conduct Survey* reported that they were subject to the imposition of restraints of trade following the termination of their agreement. This represents a significant proportion, with some of these restraints being described as follows:

- Hand-over of the customer database to the franchisor and being told by the franchisor that they are not allowed to contact customers on the database going forward;
- Not being able to sell the product (e.g. motorcycles), the spare parts or conduct the servicing of the product;
- Not being allowed to work as a tradesperson in the local area or own another business in the area;
- The premises being reverted back to the franchisor, even though the lease still rests with the franchisee;
- Franchisors taking legal action to stop operators relocating a business, and even demanding changes to the colour of the building for which no trademark applies;
- Franchisors sending letters to clients redirecting them as to where they can operate a new business;
- Confidentiality restrictions, including no disparagement of the franchise.

VACC believes that these examples highlight some critical issues that require greater legal clarity or reform including:

- Who has access to the customer following the termination of a franchise agreement?
- Are franchisors legally able to control customer databases and forbid former franchisees from contacting their previous clients?
- Should franchisors be able to dictate the terms and conditions regarding former franchisees setting up new and competing businesses in the area?

Former franchisees have also expressed to VACC in great depth, the acute financial and emotional stresses they have endured as a result of the imposition of such restraints of trade upon termination of their agreement. Many current franchisees have also expressed that they do not know what would happen upon termination of their agreement, but remain fearful of reprisals as such. The fact that such restrictive trade practices by franchisors remain prevalent and are rarely challenged, is testament to the high cost of legal action and the comparatively weaker economic position of the franchisee.

(g) The enforcement of breaches of the Franchising Code of Conduct and the Oil Code of Conduct and other applicable laws, such as the Competition and Consumer Act 2010.

There is little evidence to suggest that any breaches in the code are able to be enforced as the franchisors often use their considerable power to force the franchisees into not pursuing any legal avenues. Franchisees often cite breaches to the code however, they are deterred from pursuing these by the franchisors as they are advised that any outcomes would not be in the franchisee's favour.

In the rare occasions that there is a settlement reached between the parties, this will more often than not result in the benefit of the franchisor at the expense of the franchisee. This business environment, creates fear and uncertainty and often results in a "no-win" situation where the franchisees feel like they have no protection and live in fear of losing their businesses and their livelihood. In many cases, this involves businesses that they have built over a considerable length of time, relying on them for their livelihoods and future "nest-egg".

(h) Any related matter

Based on the evidence presented to VACC, there are a number of reasons why the Franchise Code and Oil Code of Conduct both work poorly for the automotive industry and its business owners.

- The automotive industry is a complex industry as it is comprised of many sectors which are quite diverse in nature. There is a range of business entities, some of which are family owned and operated, whilst others are significant enterprises in terms of turnover and number of staff employed;
- There is a considerable amount of capital required, both working capital and capital expenditure in the initial establishment and ongoing operation of the business. The infrastructure to support a motor industry business can require millions of dollars, particularly for premises, signage and stock;
- Due to the increasing pace of technological change in the industry, businesses are required to invest in capital expenditure as well as training and up-skilling of staff to meet these changes and for the business to continue to be profitable and viable;
- The sales process for both manufacturers and dealers is complex and multi-faceted as it can include trades and warranty support for both new and used products. The after sales process is also comprised of many layers as there is a requirement to hold parts stock, specialised technicians and ongoing training for these technicians to meet technological advancement;
- The contractual term of the agreement should take into consideration the high levels of investment required to operate the franchise. There is a requirement for there to be "a safety net" as such for the franchisor in the provision of a lengthy agreement term with an equivalent option for future renewal. This would, in all likelihood, be on the proviso that the franchisee has followed the franchisors requirements and not breached any significant

covenants of the agreement. Also, the franchisee would be required to have met the sales and after sales performance, based on a formula that has been independently arrived at. This formula may take into consideration the average industry results across the franchisor's retail network;

- In consideration of the significant initial financial outlay required by the franchisee and ongoing working capital requirements of the business, franchise agreements should not reflect "non-exclusive" territory. Geographical exclusivity should be considered and specified in any agreement;
- Franchisees should not be dictated as to which suppliers they are to purchase goods through. They should be given the opportunity to operate in a competitive market and deal with a range of suppliers to source their goods at a competitive price, and therefore impacting directly on their profitability;
- Leases on premises from which the business will operate, with the prior knowledge of the franchisor, should be consistent with the terms of the franchise agreement;
- There is a continual source of aggravation and dispute between the parties around the commercial relationship and the contents and operation of the franchise agreements following the Franchise Code. There needs to be disclosure and transparency prior to the commitment to the agreements. The franchisee is expected to invest heavily in the business without having a clear understanding of what the return on investment is likely to be. Under the Franchise and Oil Code, franchisors have the option of not providing any financial information and are not required to disclose the running costs of the business;
- Dispute resolution provisions in the Franchise and Oil Code are unsatisfactory as the franchisor is often negotiating from a position of strength as the franchisees do not have the financial and legal resources to negotiate a favourable outcome for themselves;
- Non-renewable and termination rights are currently not transparent and should be clearly stated and identified in the agreement. In the event of a termination or non-renewed scenario, the franchisee should not be forced to hold on to parts or service equipment to the detriment of business cash flow. These parts or service equipment are to be subject to full warranty and any retail rebates that the franchisor implements following the cessation of the agreement.