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Review of Franchising Regulation in New Zealand

1. On 16 August 2008 the Government released a Discussion Document in relation to a review of franchising regulation in New Zealand – to download this document go to www.med.govt.nz/templates/MultipageDocumentTOC___37853.aspx (35 pages).
2. The discussion paper covers three main areas:
 - 2.1 Consideration of whether current laws provide sufficient protection or if new laws should be brought in to regulate franchising.
 - 2.2 Recognition that the term “*franchising*” covers a range of business relationships but chooses to concentrate purely on business format franchising (where the franchisee has the right to use a brand and business system).
 - 2.3 Recognition that franchise relationships tend to be long term, collaborative and interdependent but are unequal in nature.
3. Options proposed under the Discussion Document are:
 - 3.1 a continuation of the status quo;
 - 3.2 a targeted education programme for the franchise sector;
 - 3.3 franchise specific legislation along the lines of the Franchise Association of New Zealand’s Code of Practice and the Australian Franchising Code of Conduct requiring:
 - (a) mandatory minimum information disclosure pre-contract (franchisor and business history, financial and key terms);
 - (b) franchisees to be recommended to obtain independent professional advice;
 - (c) a cooling off period for the franchisee after signing the franchise agreement;
 - (d) possible mandatory mediation requirements;
 - (e) an obligation of good faith behaviour.