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April 29, 2008

The Honorable Daniel P. Connors
Deputy President Pro Tem
Rhode Island Senate
State House Room 319
Providence, Rhode Island 02903

Dear Senator Connors:

On behalf of the International Franchise Association, I write to express strong support for your legislation, Senate Bill 2592, which restores sensible and effective regulation to franchising in Rhode Island. Without the enactment of this legislation, the growth of the franchising sector of Rhode Island, which includes 3,077 franchise establishments, employing 35,860 workers and generating an economic output of \$2.77 billion, will be at stake.

IFA is the world's oldest and largest organization representing franchising with a growing membership of more than 1,300 franchise systems, 10,000-plus franchisees and more than 500 firms that supply goods and services to the industry. Approaching a half-century of service, IFA protects, enhances and promotes franchising by advancing the values of integrity, respect, trust, commitment to excellence, honesty and diversity. According to a 2008 study by PricewaterhouseCoopers, there are more than 900,000 franchise establishments in the U.S. that are responsible for creating 21 million American jobs and generating an annual economic output of \$2.3 trillion.

As you may know, franchising is a business method that allows a business owner to invest in a proven brand and system. Detailed procedures and requirements allow a franchise system to provide consumers with a reliable and consistent product, and franchisors must be able to enforce system standards through a variety of tools, including (in rare cases) termination of franchisees failing to perform according to the standards.

However, current Rhode Island law, the Fair Dealership Act, makes it extremely difficult for a franchise system to end a relationship with a particular operator even when there are serious violations, such as safety and health code problems, violations of state or local laws, or failure to secure and maintain insurance. In fact, the notice and cure provisions of the Rhode Island law create a scenario whereby an operator could be compliant with a brand's quality standards just a few days every year.

Senator Daniel P. Connors

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Putting aside the fact that many franchisors are in fact small businesses themselves, the law's assertion that franchisors have a superior economic advantage fails to recognize the nature of franchising. Franchisors are in the business of licensing a brand name and way of doing business to investors who freely choose one franchise out of a possible universe of 2,500 or more franchise systems. The franchise agreement protects the franchisor's trademark and business system, but it also protects the value of the investment of all the franchisees of a given brand. Both parties – franchisors and franchisees – freely enter into this agreement, and both parties carry rights and obligations under this contract.

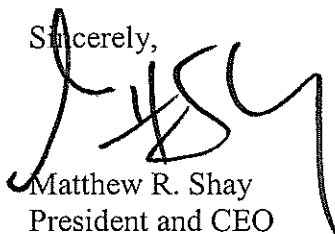
One law can not effectively regulate over 80 different industries that utilize the franchise business model. This law's attempt to resolve a specific concern within one industry will have lasting, negative repercussions on industries as varied as hotel/lodging, car rental, tax preparation, convenience stores, lawn care/landscaping, senior care, restaurants, florists and travel agents. It will no doubt give companies pause as they consider economic development plans in Rhode Island.

Another concern with the current law is the litigation that is sure to follow. As you know, the Fair Dealership Act is similar to existing law in Wisconsin, which has proven to be one of the most heavily litigated franchise regulations in the country. Similarly, a law seeking to protect franchisees was enacted in Iowa in 1992 with disastrous results. After enactment, more than 130 franchise companies eliminated or significantly reduced their franchised operations in Iowa, and the Iowa franchise law cost the state \$226 million in lost tax revenue. Since its passage, parts of the Iowa law have been declared unconstitutional, and it has been amended twice to make it less onerous.

While the Fair Dealership Act purports to protect small business owners, it will in fact have the pernicious effect of harming thousands of small business owners by allowing substantially noncompliant operators to remain in business forever. Ironically, by undermining the ability of franchise systems to enforce uniform standards, the current law places the interests of a handful of substandard operators ahead of Rhode Island's other franchised small businesses and the consuming public.

Proponents of the existing law may have had the interests of their constituents at heart; but, in practice, the Rhode Island Fair Dealership Act has created the potential for lasting harm to the state's economy and to the value of other franchise businesses in Rhode Island. I hope you will continue working with the franchise community to mitigate the effects of this law by enacting your Senate Bill 2592.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Shay', written over the typed name and title.

Matthew R. Shay
President and CEO