

From: [Jeff Elgin](#)
To: [NASAA Comments](#); [Theresa Leets](#); bill.beatty@dfi.wa.gov; [Erin Houston](#)
Subject: [EXTERNAL]NASAA Model Franchise Broker Act Comments
Date: Wednesday, August 27, 2025 3:57:59 PM

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Dear NASAA Regulators:

My name is Jeff Elgin and I have been in the franchise industry since December of 1983 – over forty years to date. During my tenure in the industry I have been a large multi-unit franchisee with two different franchise systems, held a number of franchise company senior executive positions (including CEO) with three franchise companies and in April of 2000 I also founded FranChoice, Inc., easily the largest franchise broker referral network in terms of placements of new franchisees over the past twenty five years.

I started in franchising just four years after the FTC put in place the UFOC disclosure requirements to help address the many abuses that took place, especially in relation to franchise sales brokers, in the 60's and 70's. I fully supported the idea of a national requirement for uniform disclosures by franchise companies to help protect prospective franchisees through required information being delivered to them prior to any franchise sale.

Given my background, I feel like I have a unique perspective to weigh this proposal from NASAA from a number of different perspectives in the franchise industry. Thank you for the opportunity to share my thoughts on the matter.

I have a number of challenges with this proposed Model Registration Act. For the sake of brevity I'll limit my input to four factors that I think are most important for you to consider.

1. This proposed regulation indicates a complete lack of understanding of the role of a franchise referral broker like FranChoice and its consultants. Simply put, we don't sell franchises. We are a lead source providing prospective franchisee leads to franchise companies.

In the franchise sales process for any franchise company, the first step is to develop a prospecting plan to identify potential sources of leads for prospective franchisees, of which there are many. These may include advertising with internet portals such as Entrepreneur.com or the International Franchise Association (IFA) web sites, conducting social media campaigns on sites like Facebook or LinkedIn, putting displays of franchise sales materials in existing franchise units to try to attract existing customers to look into becoming a franchisee, asking existing franchisees in the system to refer candidates to the franchisor and/or using a referral network like FranChoice to help produce referral leads to the franchise company.

In every case mentioned above, and many other examples I could provide, the franchise company develops their prospecting plan to produce leads for their franchise sales people to work with. The franchise company is not looking for the prospecting source to participate in the sales process with the leads that are produced, but rather simply to create sufficient interest in the prospective franchisee so that they will interact with the franchise company's sales people who will do the actual selling of the franchise to the prospective franchisee.

These franchise sales people who work with the leads produced by the prospecting sources may be employees of the franchise company or they may be independent contractor brokers who are hired to sell franchisees. In either case, they are the people who conduct the actual sales of the franchise opportunity to prospective franchisees.

There are a number of common activities in the franchise sales process that are conducted by

most franchise brands. Franchise sales people hold multiple contacts with prospective franchisees, delivering specific information on the franchise opportunity including explaining the franchise sales model, support structure, franchisee training programs, marketing programs, investment ranges, territory designs, helping arrange validation calls with existing franchisees and delivering the FDD disclosure document. They also commonly arrange for interviews with other franchise company executives, conducting in person visits by prospective franchisees to the franchise company's home office and ultimately assisting the prospective franchisee in executing franchise agreements and paying initial franchisees if appropriate.

FranChoice consultants do none of these things. We run our own prospecting programs to attract prospective franchisee candidates and then we conduct interactions with these candidates to get an idea of the candidate's resources and interests. After that interaction, we may refer the candidate to a franchise company's sales staff if we feel the opportunity might be interesting and potentially a good fit for the candidate. After we make this referral, the franchise sales process begins – conducted solely by the franchise company's sales staff.

The intent of the regulations seems to be to cast a wide net with the term "broker" so that any source of prospective franchisee leads would be considered a broker. I've been told by the general counsel at the IFA that they are not included in this broker definition, but that just confuses me. The IFA enters into arrangements with franchise companies, via their web site franchise.org, where they are paid money to produce franchise leads for prospective franchisees. These leads are then submitted by the IFA to the franchise company's sales staff. I'm struggling to figure out how that's materially different than what we do at FranChoice, because it's not.

This confusion needs to be cleared up. I propose as a solution a regulatory environment where what's good for the goose is good for the gander. If any prospecting lead source paid by franchisors to produce leads for prospective franchisees is to be included in this "broker" definition, then every prospecting lead source paid by franchisors to do the exact same thing should also be caught up in the same net.

The challenge with this treatment is that if this solution is implemented, the net is going to potentially catch many people and firms that I'm guessing you may not have considered. I'd be happy to supply more examples if you're interested. The simple solution is to have these regulations focus on the people and firms that are actually directly involved in the franchise sales process. There is simply no good argument for including, because of their indirect and tertiary involvement in the franchise sales process, the many prospecting businesses that franchise sales depends on.

2. My second challenge with this proposal is that it duplicates the rules and regulations already in place for franchise sales people and firms. The FTC rules are quite clear in defining the violations that are not allowed to be done by franchise sales people. If you change the rules to define brokers as people or firms who are actually directly involved in the franchise sales process, then we already have these folks covered and there is no need for additional regulations and disclosures.

There are good and valid reasons to protect potential franchisees against fraud, deceptive practices, illegal earnings claims and other abuses and these are covered in existing laws and regulations. This includes required disclosure forms for those involved in franchise sales.

3. The third area I'll mention is that I believe rules like these should be implemented on a uniform national basis, not a patchwork of varying state rules and multiple jurisdictional requirements and multiple fees. I realize that a few registration states like to do their own thing but having NASAA recommend that every state introduce their own rules and fees won't help this already burdensome factor for franchise companies.

Even if the fees are limited to registrations and amendments, if multiple states adopt this

regulation in some format or another, it will cause many of the good actors to stop doing business in those states. Having said that, we all know that it won't have any impact on the bad actors because they will simply ignore the rules, as they are doing right now. The anti-business impact of these rules on the franchise industry won't help anyone.

4. My final comment relates to the motivation behind proposing these new regulations. I keep hearing about a massive volume of consumer complaints against "brokers" being the reason for these new requirements. In the information you provide to back up the need for this new regulatory environment, I see a number of complaints but they all focus on one franchisor and one FSO. Clearly there was a problem at PMA, but it wasn't caused by referral network lead sources like FranChoice.

In all the backup information you provided to substantiate this point, there are two individuals mentioned who work with referral networks like FranChoice. In both cases, there was no suggestion that these individuals had done anything wrong – the information simply says that they referred the prospective franchisee to the franchisor.

In the twenty five year history of FranChoice, we have worked with over 500,000 prospective franchisees. In all that time, with all those people, we only once had a litigation issue we had to deal with.

This was with a franchisor called I Love Kick Boxing. As it turned out, this franchisor's internal sales staff had violated numerous franchise sales rules, though we were ignorant of that fact at the time. As the litigation awards against the franchisor increased, the franchise company eventually filed for bankruptcy.

The lawyer representing the franchisees, in an attempt to generate a new source of settlement dollars, filed multiple baseless, copycat lawsuits against FranChoice. Instead of settling, we fought these fictitious claims in federal court. After more than two years of motions and discovery and seven figure legal costs, we finally got in front of a federal district court judge on a motion of summary judgement.

Four weeks later, we received the summary judgement documenting that all the claims in these baseless lawsuits never happened. All the other lawsuits were quickly dismissed after this initial ruling by the judge.

As far as I know, this may be the only litigation involving any referral network prospecting source like FranChoice in the history of franchising. There's an old saying that "Where there's smoke, there's fire." In this case there is no smoke, so I don't see how you can infer that there's any fire.

There is simply no valid justification to advocate for increasing regulation, disclosure requirements and fees against franchise referral network lead sources by including us in a definition of "broker" that is confusingly broad.

Thank you for considering these comments.

Sincerely,

Jeff Elgin, CEO
FranChoice, Inc.

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