

November 30, 2018



Labour Relations Code Review Panel
Ministry of Labour
Government of British Columbia
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Victoria, BC V8W 9T5

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VIA EMAIL: LRCReview@gov.bc.ca

RE: Response to Labour Relations Code Review Panel Recommendations for Amendments to the Labour Relations Code

Dear Labour Relations Code Review Panel,

The Canadian Franchise Association (CFA) welcomes the opportunity to provide this submission in response to the Labour Relations Code Review Committee recommendations for changes to the BC Labour Relations Code.

The CFA is supportive of the BC government's endeavour to update BC's labour laws to better reflect the modern workplace. The CFA believes it is essential to consider the business environment alongside this review to ensure that a fair balance is achieved between the interests of employees and employers.

This submission addresses seven key areas of concern for the CFA, as follows:

1. Retaining a Secret Ballot Vote;
2. Consolidation of Bargaining Units;
3. Mediation/Arbitration of First Collective Agreements;
4. Reducing Time Limits for Certification Votes;
5. Restricting Employer Communications;
6. Expanded Factors in Board Consideration During Remedial Certification; and
7. Expansion of Successorship.

Franchising plays an important role in the lives of British Columbians and to the BC economy. It is responsible for the employment of over 260,000 British Columbians in both full-time and part-time positions through almost 10,000 BC-based franchise locations, which are independently owned and operated by small business owners. Franchising accounts for \$13 Billion in Gross Domestic Product (GDP), \$8.2 Billion in household wages, and federal and provincial tax revenues of \$2.1 Billion and \$1.3 Billion, respectively. The franchise business structure has provided many entrepreneurs the opportunity to realize their dream of owning and operating a successful business. The opportunity and economic benefits of franchising in BC is dependent upon public policy that strikes the right balance between supporting employees and employers.

We appreciate the opportunity to voice the concerns of the franchise community on BC's Labour Relations Code as it is being reviewed and look forward to Labour Relations Code Review Panel's final recommendations to government on BC's Labour Relations Code. If you have any questions regarding our submission, please do not hesitate to contact the undersigned.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sherry McNeil", is written over a light blue horizontal line.

Sherry McNeil
President & Chief Executive Officer
Canadian Franchise Association
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**Canadian
Franchise
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**The Canadian Franchise Association (CFA)
Response to the Labour Relations Code Review
Panel's Recommendations for Amendments**

Date of Submission:
November 30, 2018

BACKGROUND: FRANCHISING IN BRITISH COLUMBIA

Franchising is a strong and important contributor to the economy of British Columbia. Franchisees are typically independent small business owners and their franchise locations are independently owned. The franchise business structure has provided many entrepreneurs the opportunity to realize their dream of owning and operating a successful business.

Franchising plays an imperative role in the lives of British Columbians and their economy. Specifically, franchising is responsible for the employment of **over 260,000** British Columbians in both full-time and part-time positions. This accounts for **\$13 Billion** in Gross Domestic Product (GDP), **\$8.2 Billion** in household wages, and federal and provincial tax revenues of **\$2.1 Billion** and **\$1.3 Billion**, respectively.

OVERVIEW OF SUBMISSION

The CFA is supportive of the British Columbia Labour Relations Code Review Panel's ("the Panel") endeavour to update BC's labour laws to better reflect the modern workplace. The CFA also thanks the Panel for holding a consultation period following your tentative recommendations, and seeking all perspectives, including those of business and the franchise industry. The CFA believes it is essential to consider the business environment alongside this review to ensure that a fair balance is achieved between the interests of employers and employees.

The CFA has been significantly involved in previous initiatives to reform employment and labour legislation in both Ontario and Alberta, and we continue to amplify the voice of our members through this consultation, representing nearly 10,000 small-business owners across the province.

The Panel's report outlines many recommendations for amendment to the Labour Code that have an impact on our membership in British Columbia. As such, we intend to address the following key points in our submission:

1. Retaining a Secret Ballot Vote;
2. Consolidation of Bargaining Units;
3. Mediation/Arbitration of First Collective Agreements;
4. Reducing Time Limits for Certification Votes;
5. Restricting Employer Communications;
6. Expanded Factors in Board Consideration During Remedial Certification; and
7. Expansion of Successorship.

1. Retaining Secret Ballot Vote

The CFA supports retaining the secret ballot vote in certification applications in favour of card-based certification. Some union supporters and advocates for this change argue that a secret ballot vote hurts unionization. The CFA believes the contrary – a secret ballot vote provides greater transparency to the unionization process and ensures eligible individuals have the opportunity to participate in a democratic process. The elimination of a secret ballot vote would take from employees their opportunity to have an informed say in their individual and collective futures.

2. Consolidation of Bargaining Units

Specific to the franchise industry, the consolidation of bargaining units creates problems as it allows for the possibility that two separate franchise owners have the potential for their bargaining units to be consolidated. The result would be that two separate businesses, with two separate owners and groups of employees and issues specific to their location would be forced to bargain together.

The CFA rejects any consideration of consolidating bargaining units.

3. Mediation/Arbitration of First Collective Agreements

The Panel recommends an expansion of the Board's dispute resolution processes, including increased access to expedited arbitration processes.

The CFA believes that any suggestion that adjusts the current provision to advantage the unions would undermine the fairness and balance in this provision. Consistent with our beliefs that employers and employees should have the right to determine their own employment terms, we submit that any changes contemplated to this section should only be in the direction of the autonomy of the parties involved.

4. Reducing Time Limits for Certification Votes

An essential part of the employee's right of choice, including in the context of a vote, is to have the proper time to make inquiries and assess the options. An individual's choice as to whether or not to be represented by a union is an important decision to make.

The Panel must consider the busy schedule of an everyday employee, who has obligations to deal with outside the workplace in addition to work obligations. Employees should be afforded the proper time and opportunity to review, research, consider, and discuss with others what is before them.

Therefore, the CFA believes the recommendation to require a Board to hold a secret ballot vote within 5 days, rather than 10, should be reconsidered.

5. Restricting Employer Communications

The Panel has recommended returning to the pre-2002 Labour Relations Code language regarding employer free speech in organization drives and certification applications. The Panel suggests that employers be limited to expressing "objective neutral information that best assists the exercise of employee choice." The Panel expressly rejects allowing an employer to campaign against certification and instead recommends that the Labour Board speak on behalf of employers through an enhanced website and the provision of neutral materials to employees.

The CFA believes there should be meaningful speech rights in the Code for not only employees and unions, but for employers as well. In 2002 the government amended the statutory language to make it clearer. Even so, speech rights in both the Code and Board's decisions have always been subject to the restriction that employer speech not be intimidating or coercive.

6. Expanding Factors in Board Consideration During Remedial Certification

Remedial certification is an extreme measure that has been properly reserved for the most extreme circumstances in both the legislation and the Board's decisions. It would not be appropriate to amend this longstanding approach that has been accepted by so many leading labour relations practitioners.

As is the Panel's view, remedial certification is already the most effective deterrent and remedy for unfair labour practices, and thus factors need not be expanded.

7. Expansion of Successorship

The Panel recommends a successorship for the re-tendering of contracts in the health services, security, custodial and bus transportation sectors. This would result in an incumbent collective agreement applying to a new contractor tendering for work in those areas.

The CFA rejects this recommendation, as it would take away the democratic right of an employee to vote whether or not they wish to be represented by a union.

CONCLUSION

The CFA thanks the Panel for the opportunity to provide the viewpoint of our members on BC's Labour Relations Code as its being reviewed. As the Panel continues their consultation with stakeholders, CFA, on behalf of its members, asks the Panel to ensure its final recommendations to government maintains balance and relevance, and does not unfairly burden, disadvantage, or misunderstand the role of the business community, specifically with regards to the franchise industry.

If you have any questions regarding our submission, please do not hesitate to contact us. We look forward to the Panel's final recommendations to government on BC's Labour Relations Code.

CONTACT INFORMATION

If you have any questions regarding the content of this submission, please contact:

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ABOUT THE CANADIAN FRANCHISE ASSOCIATION (CFA)

The Canadian Franchise Association (CFA) helps everyday Canadians realize the dream of building their own business through the power of franchising. CFA advocates on issues that impact this dream on behalf of more than 700 corporate members and over 40,000 franchisees from many of Canada's best-known and emerging franchise brands. Beyond its role as the voice of the franchise industry, CFA strengthens and develops franchising by delivering best-practice education and creating rewarding connections between Canadians and the opportunities in franchising. Canadian franchises contribute over \$96 billion per year to the Canadian economy and create jobs for more than 1.8 million Canadians. Learn more at www.cfa.ca or www.FranchiseCanada.online.