



Minister silent on franchise report

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THE first signs of cracks between state and federal Labor MPs over the issue of reforming the troubled franchise industry have appeared.

While the Federal Government continues to sit on a report recommending changes to practices in the \$128 billion-a-year industry, a frustrated leading state campaigner for reform says he will have no choice but to introduce his own laws if Canberra does nothing.

A South Australian Labor Government MP, Tony Piccolo, who was at the forefront of an inquiry into the industry in his home state, has written to the federal Small Business Minister, Craig Emerson, asking when the Government will respond to an inquiry into the franchising code of conduct and what action it proposes to take.

That inquiry – tabled in Parliament in December – garnered bipartisan political support, as did earlier state inquiries in Western Australia and South Australia. All were brought on by deepening problems in the sector, which has taken several more hits in the aftermath of the global financial crisis, with several high-profile franchises going bust.

The federal inquiry made 11 recommendations, including the provision of good faith bargaining between franchisors and franchisees, enhanced powers for the Australian Competition and Consumer Commission, and monetary penalties for breaches of the code.

The implementation of the state inquiry recommendations have been held back pending action on a federal level.

Most in the industry believe national laws are required, rather than state-based ones, to overcome some of the problems occurring in countries such as the US and Canada, where there are myriad different laws covering what are essentially national businesses.

But South Australia could introduce its own laws if the Federal Government does not act.

In his letter, a copy of which

has been obtained by the *Herald*, Mr Piccolo says reform of the franchising code of conduct is “now urgent”.

“ALP policy clearly supports the reform of the code,” he wrote. “The reforms proposed by the parliamentary committees are not about compensating or protecting people who make poor business decisions. They are about ensuring that when franchisors break the law there are effective (rather than theoretical) remedies for franchisees.

“I hope to be able to advise the [South Australian] Parliament that the Federal Government will be responding positively (in part or full) to the recommendations.”

Mr Piccolo said that while he appreciated it took the Government time to respond to inquiries, it had been almost six months since the inquiry reported.

“My concerns is that [Dr Emerson] has made comments which suggest nothing much will happen,” he said.

“If that’s the case, it’s of great concern. Three different, independent inquiries have recommended something be done.”

On June 18 it would be one year since the South Australian inquiry report was tabled in its Parliament, and “I’m hopeful by then [Dr Emerson] would have written to me”.

“If not, I’ll be outlining what action I’ll take,” Mr Piccolo said.

That could mean introducing state laws. “Having state-based laws is not desirable, but how long do you wait?” he said.

“It’s certainly not up to me to build pressure on a federal minister of my own party, but I have to communicate concern from the ground level and I’m getting one or two concerns every week from franchisees.”

In uncertain economic times, many were turning to franchises to “buy a job”, but there was “less protection for someone investing \$400,000 in a franchise than someone putting \$20 in the stockmarket”, Mr Piccolo said.

Dr Emerson’s office has not responded to numerous inquiries

from the *Herald* about the progress of the recommendations, and again did not respond this week.

His silence on the matter has led many in the industry to believe he would prefer to see the report shelved. He has met with the Franchising Council of Australia and the ACCC, but has yet to indicate when, or indeed if, there will be any public consultation.

Franchisees have also indicated he was happy to meet them while in Opposition, but refuses to do so in Government.

Mr Piccolo said the FCA was clearly against implementing the federal recommendations – “they say it’s the franchisees’ own fault when everything goes bad” – and only represented franchisors.

The franchising expert Frank Zumbo, an associate professor in business law at the University of NSW, said he “applauded” Mr Piccolo’s actions.

“[He] is absolutely correct that reform of the franchising code is urgently needed and unless the [federal] recommendations are quickly implemented the current problems within the franchising sector will get much worse,” Professor Zumbo said.

“The ... recommendations are pro-franchising and will promote a stronger and more prosperous franchising sector.”

Delays in implementing the recommendations was “giving rogue franchisors the green light to continue to exploit vulnerable franchisees”.

Meanwhile, a report released yesterday commissioned for franchisors – including the FCA – says previous changes to the code of conduct had cost franchisors more than \$9 million in legal fees to update agreements and documentation.

Ian Krawitz, head of intelligence at market research company 10 Thousand Feet, which carried out the analysis, said the majority of franchisors experienced little or no impact on recruitment processes, which indicated the industry was “already operating with a high level of integrity”.