



May 29, 2014

Hon. Joe Oliver
Minister of Finance
Department of Finance Canada
140 O'Connor St.
Ottawa, Ontario
K1A 0G5

Via Email: Joe.oliver@fin.gc.ca

Dear Minister Oliver,

We are writing to express concern about the amendments proposed to the Trademarks Act in Bill C-31, an Economic Action Plan Act, 2014. Trademarks are one of the most essential aspects of franchising. Franchisees rely on the franchisor's ability to register and defend the trademark of their franchised business. The reliability of the franchisor's brand is a critical aspect of business and requires protection. Understanding that the changes in Bill C-31 are intended to address international trademark obligations, we urge you to consider the impact some aspects of these changes will have on businesses right here in our own country.

In particular, we are concerned that under Bill C-31 the current trademark registration system, which includes a usage requirement before a trademark registration is granted, will be changed and the need to demonstrate that the mark has been used in the ordinary course of business will be eliminated. This opens the possibility of applicants being able to obtain registrations for huge laundry lists of wares and services without ever having to show use of the mark in association with any of these wares or services. It is our understanding that under the current system, such applications are in the minority and cannot mature to registration without a showing of use, thus culling the "real" trademarks from those that are being filed for defensive or other purposes. Without the protection inherent through the current process, the owner of one of these "laundry list" registrations could then sue a business that is legitimately using a similar mark for infringement and the onus would be on the owner of that legitimate business to prove that the registration is invalid, a potentially costly endeavour.

The likelihood of increased difficulty and expense for defending and protecting trademarks is of significant concern and we urge you to consult with franchisors and business owners who can provide greater context and communicate the consequences if this bill were to pass. Canadian franchise businesses are a robust part of the economy and employment of Canadians.

The Canadian Franchise Association (CFA) is the recognized authority on franchising in Canada. With almost 600 corporate members nation-wide, representing almost 40,000 franchisees of many of Canada's best-known brands, CFA is the indispensable resource for the franchise community and advocates on behalf of franchisors and franchisees in Canada to enhance and protect the franchise business model. CFA promotes excellence in franchising and educates Canadians about franchising, specific franchise opportunities, and proper due diligence through its many events, programs, publications, and websites (www.cfa.ca and www.LookforaFranchise.ca).

Franchising is an important engine for the Canadian economy and for a significant number of Canadians becoming a franchisee is their chosen path to owning their own business. CFA looks forward to working with the Government to protect the opportunities and benefits franchising brings to individuals and to Canada as a whole.

Minister Oliver, we urge you to take the time to consult with the CFA, and other stakeholders, in order to understand the possible impacts this decision could have on Canadian businesses.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Lorraine R. McLachlan". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Lorraine R. McLachlan
President and Chief Executive Officer

Cc: Nathan Cullen, M.P., House of Commons, Ottawa, ON, K1A 0A6, Nathan.Cullen@parl.gc.ca
Hon. Scott Brison, M.P., 915 Confederation Building, House of Commons, Ottawa, ON, K1A 0A6, Scott.Brison@parl.gc.ca;