

FRANCHISING STRONG

THE RIGHT PATH TO SUCCESS!

Advantage Partners Lawyers

Supporting Franchising

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WELCOME TO FRANCHISING

Franchising can provide opportunities for others to get involved and help grow a strong and valuable business brand and network for the benefit of themselves, the network and the Franchisor.

It can provide and/or give access to tried and tested methods, and unique products, services or ways of doing business, allow for greater customer awareness and loyalty and therefore greater access to customers, as well as increased negotiation and buying power.

Saying all the above, franchising is not easy and actively reviewing where you are at is of extreme importance if you want to create and grow a strong and valuable brand and business for your franchisees and you.



FRANCHISING IN AUSTRALIA

In addition to the various laws affecting businesses within Australia, franchising in Australia is very heavily regulated under its' own Franchising Code of Conduct. This being a mandatory law that applies to all Franchise businesses within Australia.

There is a high risk of substantial financial penalties against both the company and the individuals behind the company, its officers and team members, if you or one of your team members or associates gets it wrong. Not only are there direct financial penalties, but the brand damage by getting it wrong, and the ACCC potentially doing a “naming and shaming”, can permanently damage the brand and consequently the value of your franchise system, its network of businesses, and you.

In Australia, you cannot enter into a franchise arrangement or receive any non-refundable monies, until certain legal documents are first prepared and specific processes followed. Your relationships are regulated before, during and after the Term of any agreement, and with changes in Consumer Laws, Unfair Term Laws, and Vulnerable Worker Laws, your liability exposure has never been as high.

Nevertheless, by having increased regulation, there has never been a safer time in Australia’s history, for franchisees and their staff to become apart of a franchise network.

Consequently, working with experts in the law and franchising, you not can only protects the system and yourself, but create a stronger, bigger and more valuable franchise brand and system.





GETTING IN RIGHT!

A franchise agreement is a long term arrangement, so once you enter into the agreement you are generally locked in for that period unable to alter the deal. Saying this, you need to update your disclosure document at least once a year, and potentially more often depending on your particular situation.

There are also trigger factors that require additional disclosures, audits, and/or steps to be taken throughout the franchise relationship, with strict timeframes and processes that must be followed to avoid substantial legal and/or financial liability and brand damage.

Consequently, it is essential that you engage experienced franchising lawyers to not only create the right documents and processes developed specifically for your specific business now and into the future, but that they work with you to regularly review these documents and your processes to ensure they are up to date and remain relevant.

Changes in the law, economy, your customers, external environment, technology as well as your learnings from the everyday operating of your franchise system, are all important factors that need to be regularly considered to not only ensure your franchise business, your team and you remain protected and strong, but that you are able to adapt to and/or discover and create new opportunities or better take advantage of existing opportunities that strengthen and increase the value of your franchise brand, business and that of your network.

MATTERS TO CONSIDER

Following on from earlier, here are some of the matters you should consider when checking to see if you are on the path to succeed:

- Are your franchise, leasing, supplies and intellectual property operations in the right structure to best protect, add value and make you more attractive when exiting?
- Do you know what your intellectual property is, and has it been reviewed by an experienced franchising and intellectual property lawyer to ensure you actually own it and it is properly protected at law?
- Have your franchise documents and franchising processes been prepared or reviewed by an experienced franchising lawyer to ensure they:
 - are in compliance with applicable laws;
 - are flexible enough to be able to take advantage of the various opportunities your business and brand may be able to have or be able to leverage off; and
 - best protect the value of your franchise brand, business and network?

These are not only important for you as franchisor, but your franchisees who invest into the brand.

- Are your documents specialised to your brand and system, its' needs and aspirations?
- When was the last time your franchising documents, intellectual property and processes were reviewed from both a legal and business perspective?
- What processes do you have in place to ensure you and your team are aware of and meet your ongoing legal obligations? Just a few examples include, the Franchising Code of Conduct, Consumer laws, Unfair Terms and Vulnerable Workers Laws.

- What process do you have in place to ensure your documents and processes:
 - remain up to date;
 - create a positive legal and business culture within the network (franchisor, franchisees and their staff); and
 - put you in the best position to have a strong and growing franchise business, brand and network.

- What do you need for a successful operation? Do you have the legal documents that back this up? Is this and the documents regularly reviewed?

- Do you have and/or need any ACCC Immunity notifications.

- Do you regularly catch up with your franchising lawyer catch to discuss and review:
 - current operations;
 - your major contracts;
 - potential opportunities; and
 - how you can improve your processes, documents and systems to add extra value, take advantage of existing opportunities and/or discover and create new opportunities?



NEXT STEPS

When operating within the ever changing world of franchising, there are as you can see a number of matters that should be considered, and steps taken to not only protect the system and yourself, but create a stronger, bigger and more valuable franchise brand and system.

Work smart, grab the opportunities, create a system to be proud of, and when you reach success, make sure it isn't taken away from you.

Working with experienced franchising lawyers, such as the team at Advantage Partners Lawyers with our extensive franchising and business experience, will help you focus on what is important, and put you in the best position to create and achieve your successful franchising empire!

Contact us now for a free initial chat.

MORE INFORMATION

ABOUT ADVANTAGE PARTNERS LAWYERS

We work with Start Ups to well established Australian and International groups, to provide practical and effective commercial legal advice and solutions.

With specialties in Franchising Solutions, Start Ups & Acceleration, and Business deals, our focus is on giving you the advantage in business.

As your Trusted Advisor - we help you:

- strengthen your foundations;
- envision and create new opportunities; and
- get deals done!

CONTACTS



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Should you require legal advice, please contact us.

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