



STARTING ON THE FRANCHISING PATH

TIPS TO GET YOU READY TO GO!

Advantage Partners Lawyers
Supporting Franchising

PO Box 477, Main Beach QLD 4217 <https://advpartners.com.au/>

Liability limited by a scheme approved under Professional Standards Legislation. Legal practitioners employed by Advantage Partners Lawyers Pty Ltd are members of the scheme.

TABLE OF CONTENTS

WELCOME TO FRANCHISING	3
FRANCHISING IN AUSTRALIA	4
GETTING READY	5
STARTING CHECKLIST	6
NEXT STEPS	8
MORE INFORMATION	9

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, especially in the initial stages, is not easy and being proactive to get your foundations right is of extreme importance if you want to create a strong and valuable brand and business that people want to join.



FRANCHISING IN AUSTRALIA

Franchising in Australia is very heavily regulated under the Franchising Code of Conduct, the 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 if you get it wrong. Let alone the brand damage to your business.

It should be noted that it does not matter if you call yourself a franchise. In Australia, if you meet certain characteristics you are a franchise, irrelevant of what you call yourself, and must abide by the Franchising Code of Conduct.

In Australia, you cannot even enter into a franchise arrangement or receive any non-refundable monies, until certain legal documents are first prepared and given to a franchisee, there are also various cooling off periods that apply to both new franchise grants as well as sales of existing franchised businesses.





LET'S GET READY TO GO!

When someone is interested in becoming a franchisee you will want to act quickly. For this you will need your right structure in place, your intellectual property protected and your franchise documents, which will include Information Statement, Key Fact Statement, Disclosure Document, Franchise Agreement and various other supporting documents ready to provide and then sign.

A franchise agreement is a long term arrangement, (most franchise agreements being around 5 - 10 years plus options of the same period), so once you enter the agreement you are generally locked in for that period unable to alter the deal. Consequently, you want to ensure that you have created the right documents for your business now and into the future that protect the brand, enable you to grow and your franchisees and you to become successful.

Therefore, careful consideration should be taken, to put you in the best position from the beginning of your journey. You should ensure you have prepared in advance so as to ensure you not only have value to offer to get moving as soon as you have interest, but have established strong foundations that enable you to create opportunities to achieve your franchising goals!

STARTING CHECKLIST

As you decide to move along the path to franchising, some of the matters you should consider when taking your first steps, is to ask yourself:

- Are you Franchisor registered on the Franchise Register?
- Have you considered how your franchise model would look, the franchisee's role and the franchisor's role?
- Is this to be a full time or part time operation;
- Does the model require a mobile, online or fixed site premises? And if fixed site, who is to hold the lease?
- Will the franchisee be required to purchase certain items? If so, is there restrictions from whom they can make these purchases?
- Do you have exclusive systems, processes, services and/or products that your franchisee would be able to take advantage of?
- Are your systems, clear, understandable and easily replicable?
- Do you know what is your intellectual property (i.e. materials that make up your copyright, trade marks, designs, plans, manuals, trade secrets, know how etc)?
- Do you know who legally owns each and all your intellectual property relevant to the proposed franchise?

You may be surprised who actually owns certain intellectual property and whose consent you may require, even when you have paid for the relevant material.

- Have you sufficiently protected your intellectual property rights?

Noting that you do not want to spend monies and create material to later find out that you cannot use any logo, name or branding, or risk being sued or having to make costly changes to remove and/or make changes.

- Have you a pilot operation and done a feasibility study and calculated the financial viability of this proposed franchise model?

- Have you got the right structure in place?

Changing structures later may result in unnecessary costs and extra work, as well as exposing you to additional and unnecessary risks and liability.

- Have you got the legal documents required to grant franchises read to go?

This includes at the very minimum Franchise Agreement, Key Fact Statement, Disclosure Document, Information Statement and Associated documents. These being the mandatory requirements to have and provide under the Franchising Code of Conduct before you can legally enter into a franchise agreement or receive any non refundable monies from a potential franchisee.

Furthermore, as mentioned earlier, these set out your long term relationship, and as such, should be carefully designed to be specific to you, so as to both protect and enable you, the brand and the franchisees to successfully grow.

These are just a few a few of the many factors that should be considered and will help you make sure that franchising is not only right for your business and you, but to help ensure you meet all your legal obligations (there can be heavy personal penalties for getting it wrong) and create the best system to grow your business and attract the right franchisees.



NEXT STEPS

When going down the path of the exciting world of franchising, there are as you can see a number of essential matters to be considered and steps taken before being able to recruit your first franchisee.

In these early days, there are also the protections you should have put in place at the beginning to make sure that, on the day when you reach success, it isn't taken away from you.

Some of these steps will require thoughtful consideration and time to get it right, so it is best to get started early.

How fast you progress is in your hands.

Working from the outset 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, move through the process and put you in the best position to create the foundations and opportunities right for you to create your franchising empire!

Contact us now for your Free Discovery Call.

MORE INFORMATION

Advantage Partners Lawyers is the law firm for businesses that want to be strong and grow.

Since 2008 our team, led by Simone Pentis, has focused on being your partner supporting you with effective legal and business advice, strategies and solutions to discover, create and achieve your Business Advantage.

We have a particular specialty in franchising, our team having held both private and in house franchising specialist roles within Australian and international franchise companies, having assisted in set up of new franchise systems while helping others expand within Australia and overseas.

For more information about us, visit www.advpartners.com.au. Otherwise, why not take action now and book your Free Discovery Call to learn how we can help you on your road to Franchising Success.

CONTACTS



Simone Pentis

Managing Director

T: 0406 992 365

F: snentis@advpartners.com.au

Advantage Partners Lawyers (ACN 132 177 729)

PO Box 477, Main Beach, QLD 4217

T: 1300 001 455

admin@advpartners.com.au | www.advpartners.com.au

Page 9



This guide should not be relied on as a substitute for obtaining legal, financial, or other professional advice. It is intended to provide general information only and is not intended to be comprehensive. The contents do not constitute legal, financial or taxation advice and must not be relied upon as such. You must seek specific professional advice tailored to your personal circumstances before taking any action based on this publication.

Should you require legal advice, please contact us.

Advantage Partners Lawyers (ACN 132 177 729)

PO Box 477, Main Beach QLD 4217

T: 1300 001 455

admin@advpartners.com.au

<https://advpartners.com.au/>

