



The Franchise Code of Conduct – General

The Franchise Code of Conduct (the “Code”) governs franchising in Australia. It is a compulsory code and must be complied with.

It contains the rules relating to, for example:

1. Disclosure requirements;
2. Cooling off periods;
3. Provisions a franchise agreement can and cannot contain;
4. Marketing funds;
5. The transfer of a franchise agreement;
6. Resolving Disputes; and
7. Termination of the franchise agreement.

In this article we will look at the disclosure requirements. In later articles we will look at the other rules outlined in the Code.

Before entering into a franchise agreement a Franchisor must provide disclosure to the franchisee. This disclosure must be in the form outlined in the Code and must be given to the franchisee at least 14 days before the franchisee enters into a franchise agreement or pays a non-refundable amount.

The franchisor must also give disclosure at least 14 days before the “renewal, extension or extension of the scope of the franchise agreement.”

Together with the disclosure document the franchisor must give the franchisee:

1. A copy of the Code;
2. A copy of the franchise agreement in the form in which it is to be signed; and
3. A copy of other documents required to be signed in the form in which they are to be signed.
Note, if these documents are not available at that time then they need to be given when they are available.

The disclosure document covers a wide range of information. The information is given to the franchisee to enable the franchisee to make an informed decision when deciding to enter into the franchise agreement. The information includes:

1. Information about the franchisor and its key people. This includes their business experience and qualifications, contact details and details about any litigation against the franchisor;
2. A list of the current franchisees and their contact details;

[Recipient Name]

April 16, 2012

Page 2

3. The number of franchise agreements which have been terminated, ceased to operate etc and, if the franchisee has not asked for their details to be withheld, then the contact details of the franchisees who have left the system;
4. Details of the intellectual property of the franchisor which will be used in the franchise system;
5. The payments a franchisee is required to make to the franchisor;
6. The payments the franchisee will incur in operating the business;
7. What will happen at the end of the franchise agreement;
8. A summary or reference to clause numbers in the franchise agreement; and
9. The financial details of the franchisor.

Some franchisors make the mistake of using the disclosure document as a marketing tool. The disclosure document is not a marketing tool, it is a legal document and should be completed correctly and in accordance with Code.

Franchisees should pay attention to the disclosure document as it does contain important information about the operation of the system and their business.

Disclaimer – this article is for general information purposes only and is not to be relied upon as legal advice. You should obtain specific legal advice about your particular circumstances.