

Franchising

A franchise is where a brand and proprietary rights are licensed by the franchisor to others (franchisees) to run a business under the brand and using the proprietary rights. Such rights are usually licensed for a defined geographical area or region.

In Australia, franchising is regulated by a code of conduct under the Federal government's, *Competition and Consumer Act 2010* (Cth). The code is mandatory and so if your business model fits the definition of a franchise under that code, you are bound by it and must comply with it.

The legal requirements under the *Franchising Code* extend to much more than the franchise agreement, which is generally confined to the conditions around the licence of the brand and proprietary rights to the franchisee.

The franchisor is also required to maintain a *Franchise Disclosure Document*, and keep it current. This is the document that is provided to potential franchisees to give them a snapshot of important information about the franchised business, from the territory, CVs of the current directors, financial situation of the franchisor, requirements to purchase certain goods or services from the franchisor or preferred suppliers of the franchisor and much more. Compiling the initial *Franchise Disclosure Document* and keeping it up-to-date is a significant task requiring input from within your business, your lawyer and accountant.

The franchisor must also ensure that all franchisees execute a notice informing the franchisor that it has sought legal, financial or business advice from a professional or declined to do so.

For franchisors and would be franchisors, we can help you maintain and prepare all of the necessary documentation in accordance with the *Franchising Code*.

For franchisees we can cut through the volume of documentation and identify (and advise on) what you need to know to make an informed decision on whether to become a franchisee.

Contact us today for assistance with YOUR COMMERCIAL AGREEMENTS

- **Local and National - (02) 4288 2030**
- **International - + 61 2 4288 2030**
- **info@marshallip.com.au**

IProfessionals

T +61 (0) 2 4288 2030
F +61 (0) 2 4288 2034
E info@marshallip.com.au
W marshallip.com.au

Suite 1, Level 2, 221-229 Crown Street
Wollongong NSW 2500
Postal: PO Box 869, Wollongong NSW 2500

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