

## GUIDE TO THE FRANCHISE CODE 2015

### WHAT TO KNOW AND WHAT TO DO

#### WHAT YOU NEED TO KNOW AS A FRANCHISOR:

- The new Code commences 1 January 2015 and there are a number of transitional provisions to be aware of.
- Substantial changes to the franchisor disclosure requirements.
- Disclosure of supplier rebates, lease incentives and benefits and online trading activities now required.
- Marketing fund – greater accountability on franchisors and control by franchisees.
- Limits on enforcing non-compete and restraint provisions on franchisees' end of Term.
- End of term obligations on franchisors with possible good will payments to franchisees.
- Good faith obligations entrenched in the Code.
- ACCC powers to impose fines of \$8,500 per breach and up to \$51,000 per breach in the Federal Court.
- Restrictions on capital expenditure requirements.

**It is a whole new world in franchising as from 1 January 2015 and franchisors need to act and seek specialist advice.**

#### WHAT TO DO:

- **Don't panic** – franchisors have a grace period to upgrade their documents up until the 31<sup>st</sup> of October 2015.
- **Don't wait!** – do it in the first quarter of 2015.
- Even a minor variation or extension of the term of a pre 1 January 2015 agreement will bring it under the new Code.
- Compliance and documentation are your friends! Your records will be key to avoiding ACCC penalties and sanctions.
- Review your Franchisee Induction Program, upgrade your Recruitment Manuals and Disclosure Compliance process, to ensure compliance with the new Code.



- Conduct in-house staff training to ensure your staff are aware of the Code changes and risks.
- Protect your system and your brand by avoiding a breach of the Code.
- Get specialist franchise advice as there are many more tricks and traps.

**Robert Toth has moved!**

Robert is now head of the Franchise Group at **Marsh & Maher Lawyers**. Robert is a well recognized and published author on Franchising Law and International Franchising with 30 years of industry knowledge and experience.

Email or call Robert to discuss your requirements and upgrade your documents for a fixed cost.

For a complimentary, detailed "Guide to the Franchise Code 2015", please email me at [rxt@marshmaher.com.au](mailto:rxt@marshmaher.com.au).

**Robert Toth**

Partner

**MARSH & MAHER**

Level 1, 551 Lt Lonsdale Street

Melbourne, Victoria, 3000

PH: 03 9604 9401

FAX: 03 9600 3313

Email: [rxt@marshmaher.com.au](mailto:rxt@marshmaher.com.au)