

The Franchise Review

OFFICIAL JOURNAL OF THE FRANCHISE COUNCIL OF AUSTRALIA



Strengthening the franchise sector

Welcome to the FCA's new executive team

INSIDE

Page 4: The franchises using apps to improve service delivery and engagement

Page 15: Gutter-Vac's Facebook recruitment success

Page 18: How to turn marketing challenges into opportunities

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Contents

- 2** **A message from the Executive Chair**
By Bruce Billson, Executive Chair, Franchise Council of Australia
- 4** **Franchises getting technical**
The Franchise Review looks at two franchise systems that are capitalising on the digital age
- 8** **Leading franchisors announced as keynotes at first National Franchise Convention 2016**
Innovation is a key theme at this year's National Franchise Convention
- 10** **FCA sets sights on strengthening sector with new executive appointments**
The FCA targets growth with the recent appointments of a new Executive Chair and Chief Executive Officer
- 15** **Gutter-Vac Facebook ads earn recruitment thumbs-up**
By Warren Ballantyne, Founder and Managing Director, Gutter-Vac
- 18** **Turning marketing challenges into opportunities**
By Troy Townsend, Chief Product Officer and Co-Founder, Tiger Pistol
- 21** **Franchising and cybersecurity legal issues**
By Sean Field, Special Counsel, Maddocks
- 24** **A healthy appetite for success**
An interview with Marlies and Jai Hobbs, Co-Founders of Paleo Café
- 28** **Fire safety franchise powers up for growth**
An interview with Jacob Foster, Founder and Managing Director, FCF Fire and Electrical
- 30** **Searching for marketing gold? Try search marketing**
By Pete Cane, Managing Director, Full Measure Digital
- 32** **helloworld taking travel to a whole new level**
Travel distribution group Helloworld Pty Ltd is thriving in the face of a rapidly digitising travel business landscape
- 34** **Events in focus: franchisors share their international expansion experiences**
Attendees at the FCA's recent Victorian Chapter breakfast heard from leading franchisors about taking their franchises overseas
- 36** **FCA Events Calendar**
A look at FCA events from July to September
- 38** **Franchising, Texas-style: the FCA's 2016 United States Study Tour**
A lucky group of franchisors hit the road in Texas to learn from some of the biggest names in global franchising
- 43** **Franchising success stories on show at the NSW/ACT Excellence in Franchising Awards**
The best of the best in NSW/ACT were recognised at April's awards event
- 46** **What the new unfair contract terms regime means for franchising**
By Bruce McFarlane, Partner, Hall & Wilcox; Michelle Aggromito, Lawyer, Hall & Wilcox; and Alice Forbes, Paralegal, Hall & Wilcox

INSIDE



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Tel: (03) 9274 4200 | **Fax:** (03) 9329 5295
Email: media@executivemedia.com.au | **Web:** www.executivemedia.com.au

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A message from the Executive Chair

BY BRUCE BILLSON, EXECUTIVE CHAIR, FRANCHISE COUNCIL OF AUSTRALIA

It's with great pleasure that I take the role of Executive Chair at the Franchise Council of Australia, and commence the task of further boosting what is already a vibrant sector and a vital contributor to Australia's economy.

I am passionate about continuing to support entrepreneurial women and men in the Australian economy in my post-political life, and as FCA Chair I am enthusiastic about focusing my ambition to continue to 'energise enterprise' for the innovative and highly motivated businesspeople who drive success in this important sector of the economy.

As businesses become more optimistic about economic conditions in Australia over the next 12 months, and the next five years, now is the time to take Australia's leading role in franchising to the next level, and grow the number of first-class systems, investors and livelihoods that are made possible by franchising.

I'm excited to work with the FCA Board, executive team and membership to build on the positive momentum in franchising by continuing to nurture confidence not only in this model of commerce, but also in the capacity of the sector and our commitment to quality.



Bruce Billson

FCA membership provides a fantastic value proposition, and we will be working to spread this message to the broader franchise sector

Moving forward, the FCA is committed to driving growth, both of the sector as a whole, and of our membership. FCA membership provides a fantastic value proposition, and we will be working to spread this message to the broader franchise sector. To the FCA's members, I would like to extend a sincere thank you for your ongoing support of the Association – it is this support that makes our work possible, and I look forward to working with you to further strengthen the sector.

In the short time I have been the FCA Chair, I have already had the privilege of meeting with some of the FCA's members, and hearing firsthand of your successes and challenges. I am committed to ensuring that the great work and achievements



of our members are shared and communicated to the broader community, while also working constructively with all relevant stakeholders to address sectoral challenges.

You can also be assured that the FCA Board recognises that there is much to be done to protect the sector, and to ensure that franchising remains a vibrant and successful model for doing business.

Senate Committee Inquiry into Temporary Work visas – recommendations to impact franchising

The FCA has actively engaged with the Senate Standing Committees on Education and Employment in relation to the impact of Australia's Temporary Work visa programs on the Australian labour market, and on Temporary Work visa holders. This has included both making a written submission to the Inquiry, and appearing before a Senate Committee hearing in late 2015.

The Committee's report has now been released. The FCA sees some merit in the recommendation contained in the Senate Reference Committee report regarding consideration of an amendment to the Franchising Code of Conduct; this amendment would allow a franchisor to immediately terminate a franchise agreement if a franchisee were to commit a serious breach of workplace legislation.

Another recommendation that was at odds with the FCA submission has the Senate Committee proposing that Treasury and the ACCC review the Franchising Code 'with a view to assessing the respective responsibilities of franchisors and franchisees regarding compliance with workplace law, including whether there would be scope to impose some degree of responsibility on the franchisor and the merits or otherwise of doing so'.

As your representative body, the FCA will continue to work with government as it shapes its response to the Senate report, and with other relevant stakeholders, to ensure that our members' interests are presented and advocated for, and to ensure that the separation of responsibilities for workplace compliance between franchisors and franchisees is not eroded.

In this context, we also recognise the importance of the sector taking the lead – and being seen to do so – in regard to workplace compliance matters. The FCA has supported the development of a draft Workplace Standard outlining the expected roles of franchisors and franchisees in the context of workplace compliance, and we also suggested in our

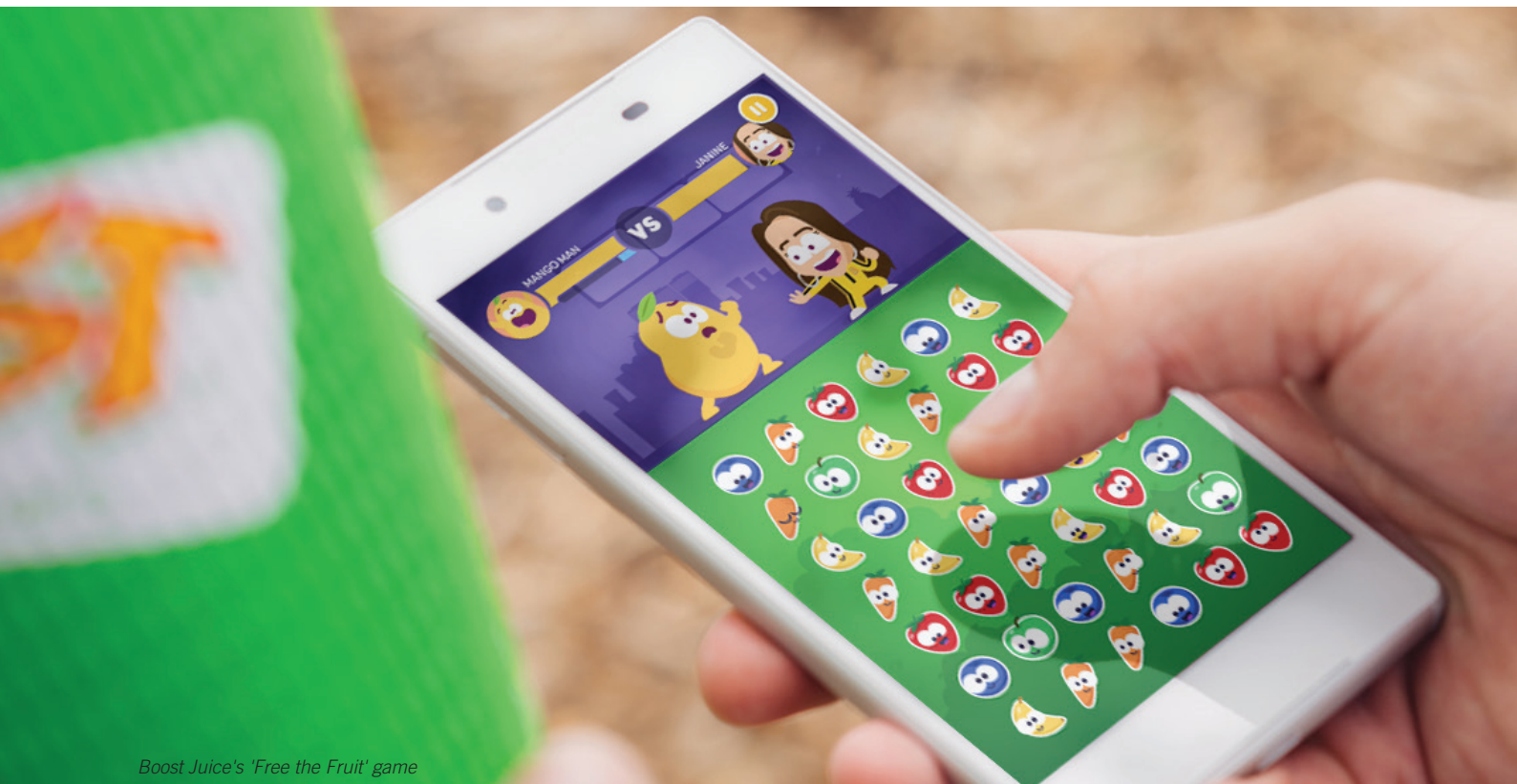
submission to the Senate Inquiry that there may need to be an extension of the personal liability of directors of employers that do not meet their workplace payment obligations.

Additionally, the FCA actively encourages all members to examine the resources, support systems and communication between franchisors and franchisees to ensure that each party fully understands its roles and responsibilities in relation to workplace laws and compliance obligations. This is appropriate and prudent, and we are aware that many franchise systems have in recent months stepped up their inspection and educational activities.

The FCA will keep you informed of discussions around the Senate Inquiry as they develop.

In the meantime, I look forward to getting to know more FCA members personally over the coming months, and to working with, and for, you to continue to grow and improve the sector. ●●●

the FCA actively encourages all members to examine the resources, support systems and communication between franchisors and franchisees to ensure that each party fully understands their roles and responsibilities in relation to workplace laws and compliance obligations



Boost Juice's 'Free the Fruit' game

Franchises getting technical

Technology is providing innovative new ways for franchisors to reach and serve their customers. From brand recognition to customer engagement and improved service delivery, digital platforms both online and via apps are paving the way to a new era of franchising. In this edition of *The Franchise Review*, we look at two franchise systems that are capitalising on the digital age.

Boost Juice

Boost Juice is constantly looking for new ways to engage its customers, and has recently developed a game called *Free the Fruit*, which helps to boost loyalty to, and awareness of, the brand by providing a fun way for customers to win vouchers for Boost products. Boost's Nikki Price, National Marketing Manager and Christian McGilloway, Head of Digital, tell us about the evolution of the game:

Boost has always been a cheeky, fun and forward-thinking digital brand, and we wanted to create a fun way for our customers to engage. We decided that creating a branded gamification app would help engage the segment of Boost Juice's core audience that sat outside the brand's retail space or other current digital platforms.

As a brand, Boost Juice prides itself on the customer experience that it offers in store; however, we wanted to bring this to life on a new platform that is different to that of Boost Juice's current mobile ordering app and social platforms.

Gamification is a growing trend and, if it's done right, it can result in engagement figures unlike that of traditional above-the-line (ATL) methods such as television and print advertising. The goal for Boost was simple: to create a game that embodied the Boost Juice brand and, as a result, engaged the brand's core consumers for long periods of time.

It was also important to us that the game would bring brand noise. This would be done by creating a game that was fun and cheeky, that people enjoyed playing, and that would carry a series of time-sensitive discount vouchers – this would help to increase not only game play, but also the frequency of visits to the stores.



We knew that engaging via the game would bring the brand to front of mind with customers, so that when they were looking for a healthy alternative while out and about they would think of Boost Juice.

With traditional ATL media, you capture the consumer's attention for 30 seconds. So far, the total game play on Free the Fruit is 14 million minutes. To have a consumer engaged with our brand for this amount of time is invaluable.

For the success of the project, we had to make sure that the game stood on its own and did not feel like a marketing game. As Boost is a brand known for its variety of smoothies and options, it seemed only natural to create a game that made fruit the hero; hence, Free the Fruit was born, with Mango Man as the main character.

The game asks users to help Mango Man free the fruit that's been stolen from Boost Juice stores around Australia by fruit-nappers. By creating a concept that was fun and fictional, but still brought the brand assets to life (including the brand founder as a fruit-napper), we knew that we were giving players an experience that would feel natural and not too branded, hence holding their attention for longer periods of time.

As a new marketing initiative that was different to the brand's usual campaigns, Boost Juice knew that the marketing methods for Free the Fruit would have to be different. The marketing strategies would aim to achieve the following goals:

- to encourage people to download Free the Fruit
- to encourage users to play again and continue to engage with Free the Fruit
- to drive the frequency of users visiting stores as a result of engaging with Free the Fruit and using their vouchers.

In order to achieve these goals, Boost Juice first created in-store point-of-sale marketing on both their digital screens and posters advertising customers' chances to play and win. On average, Boost Juice stores have an annual footfall of 23 million, meaning that POS marketing is a great way to get current customers interested in the game. To further engage with current customers, Boost Juice also handed out Free the Fruit collectable cards with every purchase, allowing customers to meet the characters and fruit-nappers, plus enter a daily bonus code for in-game power-ups to help players beat each level.

We knew that our marketing methods had to be online/digital and engaging, as people would be more likely to play or download the game if they learnt about it when on their smart phone or device – especially when trying to reach new customers. Facebook marketing was determined to be a strong and targeted way of doing this. We leveraged our 530,000 Facebook followers first, for the initial downloads, and then created look-alike audiences from those players to target non-Boost fans. This, combined with omni-channel marketing to our Vibe [loyalty club] customers through email, and to users of our Boost app, meant that we reached our target of downloads extremely early.

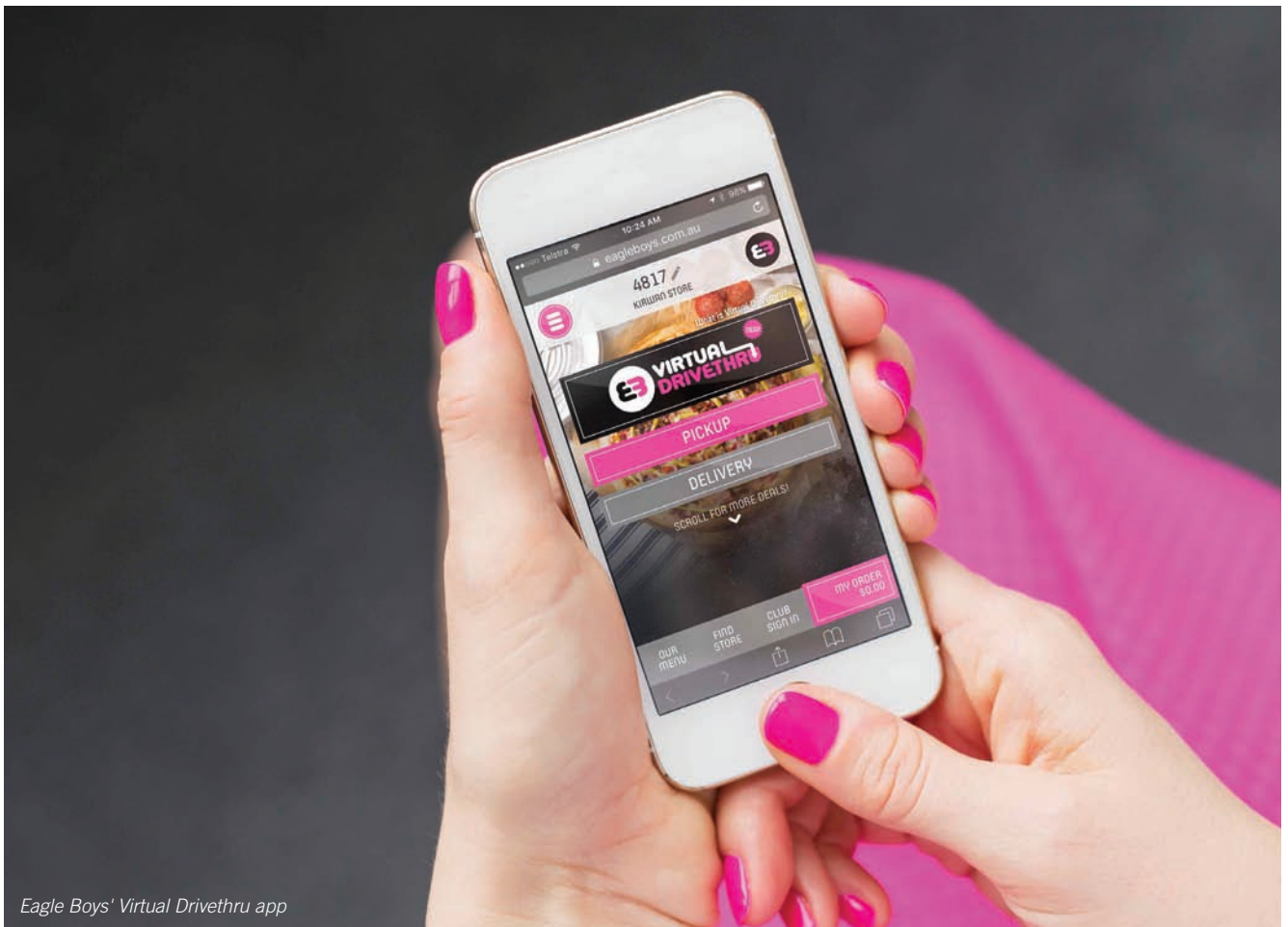
The app achieved number one in the App Store for two weeks (free games) and number two in its first weekend (all apps), proving these methods to be effective ways of achieving the first goal of downloads.

In order to achieve continuous engagement, the offering of time-sensitive coupons resulted in more than two million games being played, totalling 14 million minutes of gameplay in the app's first two weeks.

Further to this being a brand noise campaign, word of mouth would also contribute to the success of the game. This is why during the development phases of the game, it was important to Boost Juice that the app was simple, yet highly addictive, and would encourage users to share their experience and wins. All communications heroed Mango Man and his objective to Free the Fruit from the Boost Juice stores. A variety of videos and still images were created to keep users engaged through social media during the eight-week campaign.

Free the Fruit statistics:

- Number one on the App Store for two weeks (free game)
- Number two in its first weekend (all apps)
- Four million vouchers were made available to be won
- Almost two million games were played.
- 14 million minutes of gameplay – campaign doubled to eight weeks as a result.
- Creator: Retail Zoo/Boost Juice & Millipede



Eagle Boys' Virtual Drivethru app

Eagle Boys

Pizza franchise Eagle Boys is trialling a new technology, the Virtual Drivethru, which allows customers to order their pizza, and have it brought to their car door when they arrive at the store. Here, CEO Nick Vincent tells us about the progression of the Virtual Drivethru.

Eagle Boys launched in 1987, and its first pizza drive-thru store was opened in the late 1990s, which was a great success. Creating the Virtual Drivethru felt like a natural progression in the company's evolution. At Eagle Boys, we are always looking at initiatives to make pizza ordering more convenient – not just for our business, but also for the industry as a whole. The Virtual Drivethru technology allows customers to pull up to an Eagle Boys store, and one of our staff will bring the order to their car at no extra cost. It was created to meet a market need for more than 70 per cent of our customers, who would rather pick up their pizza than have it delivered, but also have it done in a way that was quick and easy.

After noticing a gap in the pizza industry, we found that the answer to creating a new and convenient way of ordering was in technology. Further, the pizza industry in which we operate is very competitive, so it's important to assess what works and what can be improved. We have found that our online sales are consistently growing by double digits every year, which is not an accidental trend. It's only natural that technology – and therefore the customers' expectations of being served in a timely manner – will constantly change, so using this technology to deliver pizza to a customer's car was a natural progression.

The Virtual Drivethru streamlines the ordering process without negatively impacting the stores or the customer. It has made the ordering system as a whole more efficient, and has given the customer another option when picking up their pizzas. Online ordering will always be a major focus of the pizza industry, so being able to provide an effective and well thought-out service is essential to keeping our business fresh and current.

Since introducing the Virtual Drivethru technology nearly two months ago, we have received great feedback from our customers. Parents are saying that it gives them the option of being able to pick up their order without having to wrangle the kids when hopping out of the car. Our customers in the Townsville area are very engaged, so we knew that this was the perfect place to introduce the new Virtual Drivethru system. Our franchisees also love the Virtual Drivethru, as it has given them a chance to provide a unique service to their customers.

Currently, the Virtual Drivethru technology is being trialled in the Townsville area through the Eagle Boys Deeragun, Fairfield Waters, Kirwan and Vincent stores. We are measuring its success and how well it is received with our customers, along with potentially making any changes based on feedback.

If the trial is successful, the Virtual Drivethru technology will be rolled out to other stores within the Eagle Boys network across Australia. We are also focused on more exciting technology releases in the months ahead, along with some great new products and promotions that continue to offer customers great-value, tasty pizza options. ● ● ●



AUSTRALIA'S FAVOURITE JUICE AND SMOOTHIE MAKER EXPANDS ITS FRUITPRINT

Boost Juice offers fresh model and locations nationwide.

Boost Juice is taking its winning combination of healthy, fresh fruit, blended and squeezed into delicious smoothies and juices, to every corner of Australia, with new opportunities opening in remote and regional locations.

General Manager of Boost Juice Bars Adam Neill says that the success of the brand, and the fact that Australians increasingly want healthier options, means that demand for Boost stores is stronger than ever.

After 16 years of continued growth in Australia, we identified an opportunity to move into locations off the major destination shopping circuit.

'Brands like Boost flourish in locations where there is a lot of natural traffic,' Neill says.

'But the strength of our product means that increasingly, Boost can pull its own crowd. We're finding our stores do very well in more remote locations, away from the bigger cities.

'For example, we recently opened a store in Karratha, Western Australia, which is one of the most remote locations in Australia when you look at population distribution. It's going great guns because people love what Boost stands for, and the demand is there.

'We have also opened in Shepparton, in regional Victoria, and the locals are loving it.

'Whether they live in the CBD, the country or a mining town, customers are showing us that they want fresher, healthier options and they're voting with their feet and their wallets. This has enabled us to open 11 new greenfield stores in the past six months, which is amazing growth for a brand that is 16 years into its journey.'

Getting the edge on the competition

Neill says that Boost's ongoing success is a testament to the brand's ability to evolve.

'In the early days, it was such an energetic and passionate brand that was doing things differently to what anyone had ever seen before, and people loved that spirit – and still do,' he says.

'And while we will never forget our roots, it's important to evolve. Today, it's about keeping the brand outlook fresh and exciting for a new generation of customers, and continuing to innovate.

'We have introduced our green smoothie range to provide even healthier options for our customers who are conscious of eating clean and keeping their sugar intake low.



'And recently we launched our Black range, which has an emphasis on being naturally nutritious and delivers an abundance of premium ingredients.

'We are also exploring options to introduce a food service model to our suite. This will be relevant in locations where there is demand for healthy meals and snacks on the go to complement our juice and smoothie ranges.'

Boost Juice currently has more than 420 stores operating globally in 14 countries, including Australia, and has a current focus on expanding into the regional hub of Australia. ●●●



Leading franchisors announced as keynotes at first National Franchise Convention 2016



Catherine Monson, Chief Executive Officer and President, FASTSIGNS International



Dr Sam Prince, Founder, Zambrero

Innovation has long been the backbone of the Australian franchise sector and the entrepreneurial men and women who drive its success. And as the National Franchise Convention 2016 heads to Canberra from Sunday 9 to Tuesday 11 October, innovation will form a key theme of this year's program.

Innovation is the transformation of systems and processes to promote sustained success across your franchise system. It's fostering and implementing new ideas to recruit and engage franchisees, and to develop new growth opportunities. It is, of course, effectively harnessing technologies to enhance marketing and unearth new sales channels, while improving the customer experience.

Leading franchisors who will be sharing their expertise and insights in keynote addresses at the year's biggest franchising event will include:

Catherine Monson, Chief Executive Officer and President, FASTSIGNS International (United States)

CEO of FASTSIGNS since January 2009, Monson took a mature brand during one of the worst recessions in United States history, and revitalised and restored it to market leadership, both in the sign industry and in franchising. Learn the process she undertook to reposition the FASTSIGNS brand, grow franchisee unit level sales and profitability, improve franchisee support services, and increase the number of FASTSIGNS locations through targeted franchise development – all resulting in record EBITDA growth for the company.

Dr Sam Prince, Founder, Zambrero

Dr Prince created his first business, Zambrero Fresh Mex Grill, in his hometown of Canberra at the age of 21. Zambrero is built upon the key principles of happiness, healthy food and humanitarianism. Zambrero now has more than 110 stores worldwide – and counting. In his NFC16 fireside chat, Dr Prince will talk about his motivations for establishing Zambrero, his passion for humanitarian work, and how he has grown Zambrero into a successful and expanding franchise system while integrating his humanitarian philosophies into the core of the business. ●●●

NFC16

NATIONAL FRANCHISE CONVENTION 2016

NEW HORIZONS

9-11 OCTOBER CANBERRA

NFC16 Program Highlights

- Keynote speakers sharing their expert knowledge and motivational stories
- Concurrent panel sessions featuring franchising case studies
- Certified Franchise Executive endorsed sessions
 - The Sunday Legal Symposium
- MYOB FCA Excellence in Franchising Awards Gala Dinner recognising the best and brightest in the industry
- Abundant networking opportunities
 - Bustling trade exhibition



FRANCHISE COUNCIL OF AUSTRALIA

Innovation Meets Opportunity

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Innovation is the transformation of systems and processes to promote sustained success across your franchise system. It's fostering and implementing new ideas to recruit and engage franchisees as well as to develop new growth opportunities. It is, of course, effectively harnessing technologies to enhance marketing and unearth new sales channels, while improving the customer experience.

Whatever your innovation goals and challenges, NFC16 will deliver vital information to assist your franchise to reach its objectives.

NFC16

Book your ticket to NFC16 today & save

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For more information and to register, visit nationalfranchiseconvention.org.au



FCA sets sights on strengthening sector with new executive appointments

The Franchise Council of Australia has set its sights on growing, promoting and nurturing further success in the vibrant franchise sector with the recent appointments of a new Executive Chair and Chief Executive Officer.

Former Federal Cabinet Minister Bruce Billson has been appointed to the Board of the FCA as Executive Chair, while Damian Paull has been named as CEO, joining the FCA from the Australian Retail Credit Association (ARCA).

Mr Billson is keen to continue to support entrepreneurial women and men in the Australian economy in his post-political life, and he believes the FCA Board role is an excellent fit for his skills and experiences.

'Franchising needs clear, strategic and positive leadership to grow and prosper. The FCA is committed to providing this focus and leadership,' Mr Billson says.

'That's why the FCA Board has embarked on a plan to take advantage of improved business conditions, new opportunities and a proactive engagement with the sector and broader community.

'This strategy aims to take Australia's leading role in franchising to the next level, and to grow the number of first-class systems, investor appetite and the number of livelihoods made possible by franchising.

'Your FCA Board has also committed to ensuring the interests of all stakeholders in the franchising sector are advanced and protected. As we forge ahead, we will continue our comprehensive campaign of proactive engagement of key political decision-makers and influencers to make sure our sector is understood and valued, deals decisively with issues, and is not adversely impacted by unnecessary new or amended federal or state regulation,' Mr Billson says.

Mr Paull speaks fondly of his five years at ARCA, and with excitement about his new role with the FCA, as he feels that he can make a valuable contribution in implementing the FCA's



The FCA's new Executive Chair Bruce Billson (L) and new Chief Executive Officer Damian Paull (R)

strategic agenda, lifting the profile of franchising and the FCA, and helping the sector pursue a sustainable growth trajectory.

'I understand how right-sized regulation and effective regulator engagement, supported by education and professional development, provide the confidence and competence to support growth, investment and job creation in a key sector of our economy,' Mr Paull says.

'Franchising is where creative ideas and innovation deliver real economic value. Working with our Board and the FCA team, my aim is to capture that spirit of innovation and creativity to deliver real value to our members,' Mr Paull adds.

An early priority for Mr Paull will be finalising plans for the National Franchise Convention, which is to be held in Canberra in October, along with implementing plans for membership growth, and supporting the Board in restoring sector confidence and a sustainable FCA budget position in the wake of the impact of the 7-Eleven revelations and regulatory responses. ●●●



Anthea
Graphic Designer



Jackie
Production Manager



Shawn
Multi-unit Owner FASTSIGNS



Andrea
Signmaker/Installer



Nicky
Customer Service



Catherine
CEO FASTSIGNS/SIGNWAVE



Genevieve
Sales Consultant



Amanda
Centre Owner



June
Centre Owner



Ellie
Account Manager



Jennifer
Graphic Designer



Tina
Centre Owner



Linda
General Manager



Sharee
Sales Consultant



Kirsty
Franchise Business Consultant



Alison
Centre Owner



Danii
Graphic Designer



Jenny
Signmaker



Mariana
Production Manager



Brianna
Signmaker



WOMEN RULE AT SIGNWAVE

Lifestyle-friendly environment and outstanding business opportunity appeal to female franchisees.

As part of one of the world's fastest-growing franchises, SIGNWAVE Australia is passionate about helping women build businesses and develop leadership positions in franchising.

SIGNWAVE's ability to attract outstanding women, and its lifestyle-friendly environment, are contributing to its parent company's global record-making results, top franchise rankings and prominent industry awards.

'Women are in every role in our global network, from signmakers to the CEO,' says SIGNWAVE General Manager Linda Sultmann. 'Their ability to solve problems, build relationships and be creative are perfect for the signage, graphics and visual communications industry.'

SIGNWAVE's parent, FASTSIGNS International Inc., was the top ranked United States franchise in business services in the prestigious 2016 Franchise Business Review (FBR) Top 200 Franchises list, and was inducted into FBR's Hall of Fame last year.

FASTSIGNS was also the top ranked franchise on the Franchise Gator Top 100 list, which was developed to help prospective franchisees identify affordable franchise investments with strong potential for growth.

These accolades followed FASTSIGNS' record-breaking year. Global revenue in its latest financial year hit US\$400 million for the first time, and FASTSIGNS opened its 600th centre.

FASTSIGNS CEO and President Catherine Monson says this year could be the company's best. 'Robust franchise expansion will continue in 2016 domestically and in key international markets. Our company is experiencing high demand in

franchise sales globally due to the rising worldwide need for visual communications and digital signage technology.'

Monson will be keynote speaker at the National Franchise Convention 2016 in Canberra in October (see facing page for details).

SIGNWAVE in demand

SIGNWAVE has 16 franchises in Australia, and numbers are set to grow as established print or signage operators recognise the benefits of converting their business to a SIGNWAVE franchise.

SIGNWAVE is targeting areas of strong demand in capital cities and several regional areas. 'We have big growth plans,' says Sultmann. 'Corporate demand for signage is rising, and franchisees who join SIGNWAVE are benefiting from our business model of higher centre volumes and our high-touch, individualised training and support.'

Sultmann wants women to be a key part of SIGNWAVE's success. 'This is a great business for women. They do not need a background in visual communication. Our top-performing franchisees have come from very diverse backgrounds like sales, marketing, HR, IT and general management. We look for people who can lead a team and build relationships, and who are creative and capable of delivering great results for clients.'

Sultmann says SIGNWAVE's business-to-business model offers greater workplace flexibility. 'Franchise owners can achieve a good work/life balance, reclaim their weekends, and have the lifestyle they choose without sacrificing profitability.'



“ This is a great business for women. They do not need a background in visual communication. Our top-performing franchisees have come from very diverse backgrounds like sales, marketing, HR, IT and general management. We look for people who can lead a team and build relationships, and who are creative and capable of delivering great results for clients ”

Many companies promote the benefits of gender diversity and recognise an opportunity to attract female business owners, but few franchises have such a demonstrated commitment to women in leadership as SIGNWAVE and its parent company. ‘We have women who work in every role in the organisation: sign makers, sales consultants, production staff, installers, owners and the CEO [Catherine Monson],’ says Sultmann.

Inspiring turnaround

Monson is one of the most respected franchise CEOs in the United States. As the eldest of four children, she grew up working alongside her father in the family business and is passionate about franchising and small enterprise. She has described franchising as the ‘most effective business model to help people get into business for themselves’, and has three decades of franchising and digital printing experience.

Monson joined FASTSIGNS as its CEO in January 2009, during one of the worst recessions in US history. In a remarkable corporate turnaround, she restored a mature brand to market leadership in the signage industry and franchising sector, delivered record earnings growth, and successfully led the sale of FASTSIGNS from one private equity firm to another in 2014.

The franchising visionary told franchising.com that FASTSIGNS can grow to 1000 locations in 20 countries and have US\$900 million in sales – more than double its current revenue. Australia, through SIGNWAVE, is an important part of FASTSIGNS’ ambitions for growth.

Compelling investment

SIGNWAVE franchisees are not limited to traditional signage. They help companies of all sizes, across all industries, increase their business visibility through exhibits and displays, point of purchase collateral, digital signs, promotional products, interior décor and vehicle graphics.

Sultmann says, ‘Clients are crying out for a professional, knowledgeable and reliable supplier who can provide a one-stop shop for their visual communication needs and deliver exceptional results. SIGNWAVE franchisees become trusted partners with their clients.’

The \$5.8 billion Australian printing industry, of which signage is a part, has solid long-term prospects as more companies recognise the benefits of strong brand visibility and digital signage. Out-of-home advertising is one of the fastest growing advertising segments, and it continues to increase its share of total spending on advertising in Australia.

‘Digital signage technology is a strong area of growth worldwide and a strategic priority for SIGNWAVE,’ says Sultmann. ‘We tend to attract younger franchisee candidates who think commercially and strategically, and see the opportunity of our brand and its position in a transforming industry.’

They are attracted to an award-winning global network and SIGNWAVE’s significant franchisee support, which includes best practice technology systems, comprehensive training and ongoing support and sales coaching, as well as a sophisticated marketing program to generate customer leads.

Dean Rowland, SIGNWAVE’s franchise development manager, says the group is heavily invested in franchisee success. ‘We are in the business of supporting franchisees first and then growing our network off the back of their success, and in markets where we know there is strong client demand for our service-based offering,’ he says.

‘We are more interested in market-savvy expansion – more emphasis on developing a strategic amount of quality, volume operations than opening hundreds of centres anywhere and everywhere.’

Last year, SIGNWAVE employed two extra franchise support personnel to ensure that all centres have access to the tools, resources and expertise required to achieve optimal results for franchisees and the company.

‘A SIGNWAVE franchise is a very sound commercial investment,’ says Sultmann. ‘Franchisees are buying into a proven business model in one of the world’s most successful franchise systems, benefiting from rising demand in the visual communications industry, becoming part of a great brand and culture, and in an environment where women and men can enjoy their lifestyle and build a profitable business.’ ● ● ●

To learn more about SIGNWAVE, visit www.signwave.com.au.

Don’t miss your opportunity to hear FASTSIGNS’ CEO, Catherine Monson, at the National Franchise Convention 2016 in Canberra, from 9–11 October. The Franchise Council of Australia convention is the largest of its kind in this country and a must for those in the franchising industry.

Monson, a keynote speaker, is presenting on ‘Transforming and Re-energising a Mature Franchise Brand’. The noted public speaker will describe how she repositioned the FASTSIGNS brand, grew franchisee unit-level sales and profitability, improved franchisee support services and increased the number of FASTSIGNS locations through targeted franchise development.

Event information is available at www.franchise.org.au.

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Gutter-Vac Facebook ads earn recruitment thumbs-up

BY WARREN BALLANTYNE, FOUNDER AND MANAGING DIRECTOR, GUTTER-VAC

Franchisee recruitment is an ongoing challenge for franchise systems. Here, Gutter-Vac's founder and Managing Director, Warren Ballantyne, shares the story of how the world's largest vacuum gutter-cleaning network is successfully using Facebook to attract new franchisees to the system.

From small beginnings to big results

Gutter-Vac's ventures into using Facebook to attract new franchisees happened more by chance, to begin with, than as a well-planned strategy. We were having our website upgraded and redesigned, and the consultant we were speaking with suggested that we start getting into social media – Facebook in particular – as it was 'on the rise'. We started using Facebook to simply share posts and stories. One day, we just asked the

question if there was a way to use Facebook as an advertising channel rather than just a news channel. That is how it began.

Our early ads didn't take off, and it took a few months before we began to see any sort of result. Even when we began to see results, we were really just assuming that they were working, rather than having the factual details to confirm it. We could see that the ads were working, as we had started to target our ads just to a few unsold territories, and it was these territories



that had the most enquiries and were selling, but when we were asking the new franchisees where they had first heard of the Gutter-Vac opportunity, they were not telling us Facebook.

It was at our annual conference just last year that I mentioned this to the franchisees, and immediately three franchisees raised their hands to say that they had in fact joined Gutter-Vac from first seeing the Gutter-Vac Facebook ad! Our instincts were then confirmed that our Facebook advertising was indeed working.

Measuring success and refining Gutter-Vac's Facebook ad strategy

We have found that ads where we keep the information quite short and to the point – letting prospects know there is an opportunity available, with our favourite image (of a Gutter-Vac franchisee on the roof) and a click-through to our opportunities page – are where we get the best result. The ad demographics are specific to the suburbs in, or right next to, the available territory.

We have also found that we have more click-through on our ads from men than women, so we now solely target men in our advertising. When we are targeting a specific territory area, we will alter the age of the prospect to show the ad to, and also their interests, but we have found our 'sweet spot' is when we have a target group of between 40,000 and 100,000 people.

This has taken quite a bit of testing, measuring, tweaking and spending of money to find the right mix in our advertising. At any point in time now, we are targeting up to nine open territories, and then we have one campaign for our remarketing ads. Remarketing means that if someone visits our [website's] opportunity pages, and then they head over to Facebook, they will again see our ads. We are getting great success from these types of ads in generating leads.

We have also tested our budget on Facebook ads, and we are currently investing \$100 per territory area being advertised, and then \$100 on remarketing ads. We find that this is producing the maximum number of leads for us and, more importantly, leads that are converting to franchise sales.

Tapping into a whole new market

The thing that I like about Facebook advertising is that it reaches an audience of people who may not have even considered joining a franchise or starting their own business. We find that the ad creates an interest with people before they realise that they are interested. The majority of our marketing for recruiting new franchisees revolves around the prospect already thinking about and looking for a franchise opportunity, whereas Facebook generates that initial interest.

Another thing to mention is that we find that our franchisees come from viewing us in more than just a single source. They may see our Facebook ad, or see a franchisee drive past (they're hard to miss, with a big red trailer), and then they might start looking into franchises and see us on the FCA website. We find that Facebook is providing background recognition of our brand and opportunity. This is something that is very hard to measure, but it's something we are noticing more and more when we ask our new franchisees about it.

“The thing that I like about Facebook advertising is that it reaches an audience of people who may not have even considered joining a franchise or starting their own business”





As a side note, our franchisees are experiencing the same thing with their Facebook ads that are targeted at getting more customers with this brand recognition.

Gutter-Vac's top franchisee recruitment marketing channel

Facebook is now without a doubt our number one marketing strategy for finding new franchisees, and we just love it. We are able to change our ads, tweak the demographic, set a budget for our ads, and change the territories we are focusing on – and the ads are getting results. Every month, we review all of our franchise sales leads and where they are coming from. As part of this we look at our Facebook ads, and if we find that we have been advertising in an area for a while without a successful sale of that territory, we will give it a rest and move to another area for a period of time, and then come back and readvertise in the original area after a few months.

It is pretty exciting to have such a channel for advertising, and we have certainly seen the upside of it. I really wonder how much quicker we could have grown our franchise network if Facebook ads had been available 20 years ago when we got started!

Using Facebook ads to find new franchisees will take some time and effort – just like any marketing strategy – but the benefits will certainly make up for the 'getting started' period.

Whether you love or hate Facebook, the ability to find new franchisees through their advertising channel is absolutely worth considering. We love it! ●●●



Turning marketing challenges into opportunities

BY TROY TOWNSEND, CHIEF PRODUCT OFFICER AND CO-FOUNDER, TIGER PISTOL

Brand control and consistency are arguably at the top of a franchise's list of operational pain points. This difficulty is due in part to the very nature of the business model. A small business owner may choose to invest in a franchise as opposed to starting their own local business, in order to take advantage of an established name and reputation, and the expectation that new franchisees have is of accelerated sales results. Most franchise marketing teams strive to facilitate the necessary brand awareness activity to achieve this for their franchisees. But the truth is, top-down marketing objectives may not always be aligned, and results can't be guaranteed.

We often hear of franchisors battling with franchisees who have taken marketing into their own hands out of frustration, or out of feeling a lack of understanding and goal alignment. Mediums such as social media make it much easier for owners to feel like they are able to take control of their business marketing agenda and, therefore, their results.

Franchisee owners know their customers and the local community well. In fact, they know them best. This personal, local voice, combined with big-brand legitimacy, translates positively on social media platforms like Facebook and Instagram, and leads to local visibility, customer trust and clearer marketing results for owners. On the flip side, it can't be said that all franchisees will manage their social media presence consistently – and the wrong comment, poor creative, or disorganised management have the potential to damage the overall franchise reputation. This could cause a franchise, out of concern for overall brand equity, to contractually restrict a franchisee's local social presence.

Not allowing a local social marketing strategy, however, is to the detriment of your franchise and those franchisees that are dependent on tangible marketing results (in essence, sales) from head office. So, the question becomes: how



Troy Townsend

can you maintain control of your brand while empowering each franchisee to master their local social presence and individual objectives?

Social media has come a long way in the relatively short space of time that it has been available; what started as a way for friends and family to connect is now a proven marketing tool that is used by the biggest brands in the world to reach the two billion people per day who are active social media users. In Australia, the Facebook platform is visited by 11 million people daily via mobile. That equates to 42 per cent of the population, spending on average one hour and 20 minutes per day on the platform.

The proliferation of social media is largely due to the explosive adoption of mobile devices. Improved 4G networks in Australia have resulted in video becoming one of social media's most popular and high-performing tools for brands. Facebook's rich and powerful user data allows brands to create national campaigns targeted specifically to the individual. Unprecedented audience reach combined with highly targeted messages is garnering phenomenal results, and brands are now shifting media spend away from traditional mediums to social. Understandably, however, video isn't the right or most cost-effective solution for every brand.

Thankfully, Facebook's rich targeting is available across the platform (as well as its sister platform, Instagram) to complement a vast advertising product range, which has a product to suit every business objective and budget. For example, Facebook's Local Awareness adverts give local businesses the opportunity to connect with a mobile, hyper-local audience to drive offline sales through different call-to-action buttons.

Just imagine: a nationwide campaign run on traditional mediums such as television and radio, but supported by hundreds of local campaigns tailored to meet your franchisees'

A technology solution can be the key to effectively promoting and controlling your brand while delivering individual local objectives

needs in their immediate areas. Your brand awareness goes through the roof, local customers feel like they're getting a message that is tailored to them, and the effectiveness of your traditional mediums are amplified by social media.

These great tools and ad products don't come without their complications, of course, but the good news is that there are tools out there to help franchises understand the many moving parts of social media marketing, and remove the complexity. Tiger Pistol, for example, responded to the challenge that is 'social for franchisees' through a combination of software and unique machine learning to create a platform that streamlines workflows and automates campaign creation. This allows a franchise's marketing team to implement national social strategies, while the platform auto-tailors and launches campaigns that are specific to each franchisee's local context and goals. This results in complete control, while empowering local social strategies.

Social media is not going anywhere. The challenge for Australian franchises, now more than ever, is to move quickly and adapt marketing strategies so as to take advantage of the explosive growth in social advertising. A technology solution can be the key to effectively promoting and controlling your brand while delivering individual local objectives – keeping franchisees happy! ● ● ●



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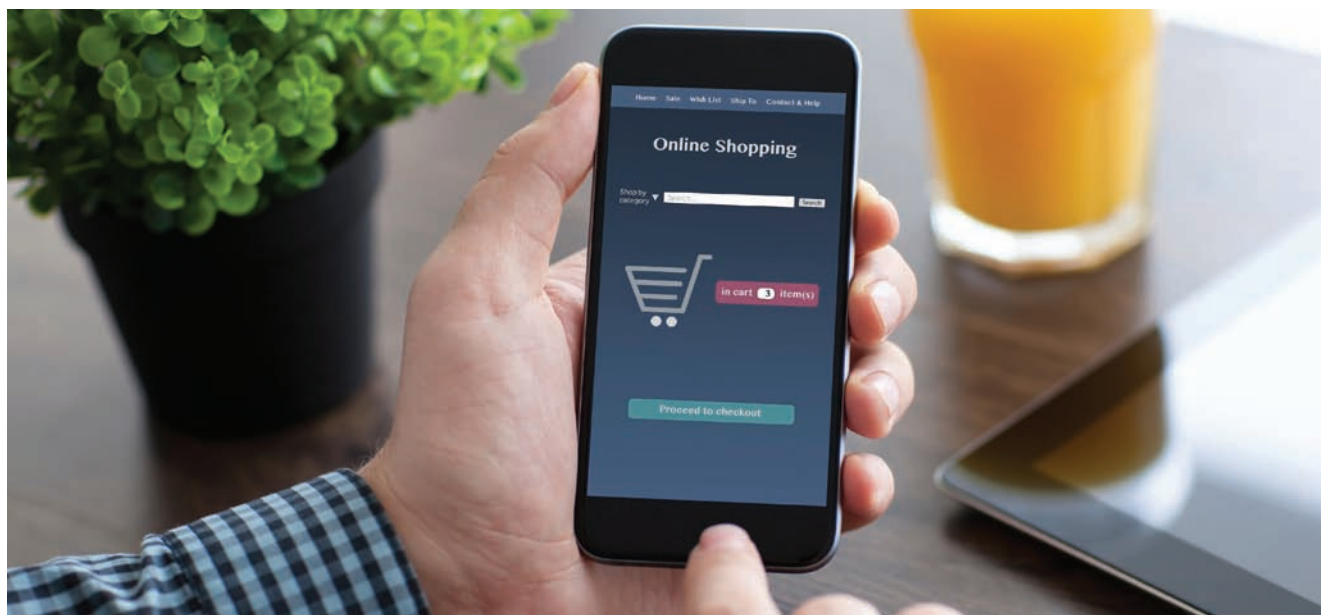


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Franchising and cybersecurity legal issues

BY SEAN FIELD, SPECIAL COUNSEL, MADDOCKS

Whether you are a franchisor or a franchisee, it is inevitable in this day and age that you will conduct (or aspire to conduct) your business online, to a greater or lesser degree.

In his foreword to the Commonwealth Government's Cyber Security Strategy, which was launched on 21 April 2016, Prime Minister Malcolm Turnbull stated that 'studies show that businesses with the strongest cybersecurity practices are usually the most profitable'.¹

If that is correct, there are good economic reasons for your business to be on top of cybersecurity. In considering cybersecurity strategies for your business, an understanding of the applicable legal and regulatory framework is vital. This article is designed to introduce business owners to key cybersecurity legal issues, and to identify sources of additional information should any reader wish to know more.²

Cybersecurity risks

Before looking at the legal and regulatory framework, a quick look at the key cybersecurity risks should illustrate why, at a practical and business level, it is important to take cybersecurity seriously.

A significant proportion of cybersecurity attacks are directed at credit card payments to businesses. These include attacks on payment at the point of sale (POS) through POS terminals, and attacks on payments made online through ecommerce platforms.³ To a large extent, the fact that this is a favoured attack vector is simply a function of the fact that so much business is done this way.

Trustwave has reported that the top three sectors, analysed by industry, for cyber attack are the retail, hospitality and food and beverage sectors.⁴ Again, the prevalence of these industries in cyber attack statistics is largely due to the volume of business that they conduct online – particularly the online processing of payments.

Given that franchising is a common method of business organisation in these sectors, hopefully the above comments about the cyber threat landscape illustrate that cybersecurity should be taken very seriously by any franchise operator, be they franchisor or franchisee.

¹ Australian Government, 'Australia's Cyber Security Strategy – Enabling innovation, growth and prosperity', 21 April 2016, Prime Minister's Foreword, page 2.

² In a short article such as this, I can only identify key relevant legal issues at a high level and in a general way. This article is not intended to be a substitute for specific professional advice.

³ See, for example, Trustwave's 2016 Global Security Report, page 4.

⁴ Trustwave's 2016 Global Security Report, page 13.



The legal and regulatory framework – key legislative obligations

1. Are you a director or officer of a company?

- 1.1. If so, you have an obligation under section 180 of the Corporations Act 2001 (Cth) (the Corporations Act) to exercise your powers and discharge your duties with ‘care and diligence’.
- 1.2. If there was any doubt that this obligation extends into the field of cybersecurity, the Australian Securities and Investments Commission (ASIC) has made its position clear. ASIC considers:
 - a. board participation important to promoting a strong culture of cyber resilience⁵
 - b. that a failure to meet obligations to identify and manage cyber risks may, if you are a director or officer of a company, result in you being disqualified from your role.⁶

2. Privacy

- 2.1. If your business has an annual turnover of more than \$3 million, it must comply with the Privacy Act 1988 (Cth) (the Privacy Act).⁷ Australian Privacy Principle (APP) no. 11 requires businesses that are subject to the Privacy Act to take such steps as are reasonable in the circumstances to protect personal information from misuse, interference and loss; and from unauthorised access, modification or disclosure.
- 2.2. For guidance as to what constitutes such ‘reasonable steps’, see the Office of the Australian Information Commissioner’s ‘Guide to securing personal information – reasonable steps to protect personal information’.⁸

3. The Australian Consumer Law

- 3.1. The Australian Competition and Consumer Commission (ACCC) has a number of statutory powers under the Australian Consumer Law, which could be exercised to take action against businesses that fail to properly prepare for cyber risks.
- 3.2. While the ACCC has to date focused on educating and informing Australian businesses about cybersecurity issues, its counterpart in the United States, the Federal Trade Commission (FTC), has taken an aggressive approach to using its statutory powers to punish cybersecurity lapses.⁹

⁵ ASIC Cyber Resilience: Health Check (ASIC Report 429), (19 March 2015) available at

download.asic.gov.au/media/3062900/rep429-published-19-march-2015-1.pdf, 29

⁶ Ibid 38.

⁷ There are some exceptions – for example, businesses providing health services (including gyms, weight-loss clinics, pharmacists and complementary therapists (for example, naturopaths and chiropractors)) are subject to the Privacy Act, regardless of turnover. There are other exceptions, too – if you are in doubt as to whether the Privacy Act applies to you, please seek professional advice.

⁸ OAIC, ‘Guide to securing personal information – reasonable steps to protect personal information’.

⁹ I have described in an earlier article the FCC’s prosecution in the United States of Wyndham Hotels and Resorts LLC; please see ‘Cybersecurity and the Australian



- 3.3. I would argue that the ACCC has similar powers to the FTC, which it could use to punish and/or deter harm caused to consumers by businesses with lax cybersecurity, including:
 - a. section 19(1)(b): false or misleading representation that services are of a particular standard
 - b. section 34: misleading conduct as to the nature, the characteristics or suitability for purpose of services
 - c. section 60: guarantee that services will be rendered with due care and skill
 - d. section 61: guarantee that services will be reasonably fit for purpose.
- 3.4. Poor cybersecurity practices – for example, providing an online payment service with insufficient protection for consumers’ credit card or personal information – could potentially be a breach of any of the above provisions of the ACL.
- 3.5. A final word of caution: if you publish a privacy policy or statement – for example, on your website – make sure that it is accurate. If you overstate or misstate your business practices or the cybersecurity measures you implement, this could be ‘misleading and deceptive’ or ‘likely to mislead or deceive’ within the scope of section 18 of the ACL.¹⁰

Consumer Law – lessons from America’, available at www.maddocks.com.au/reading-room/cybersecurity-australian-consumer-law-lessons-america-2/.

¹⁰ See the Wyndham Hotels case and the article referred to in the previous footnote.



Meeting the legislative obligations

- 3.6. The legislation referred to on the previous page contains little by way of specific guidance in relation to exactly how the various legislative obligations can be met. This is a sensible legislative approach; it allows for business owners to exercise an appropriate level of discretion in deciding how to address cybersecurity issues, and it prevents the legislation from becoming immediately obsolete due to the rapid evolution of technology (and indeed cyber threats themselves).
- 3.7. Fortunately, various Commonwealth agencies have published a range of documents and policies that provide assistance.¹¹
- 3.8. I have already referred to ASIC's Cyber Resilience: Health Check (ASIC Report 429) and to the OAIC's 'Guide to securing personal information – reasonable steps to protect personal information'.
- 3.9. I can also recommend the following Commonwealth Government publications:
- a. The Australian Signals Directorate's 'Top four mitigation strategies to protect your ICT system'¹² – this publication sets out four cybersecurity strategies that the Australian Signals Directorate (ASD) says, if implemented, can address up to 85 per cent of targeted cyber intrusions. The 'Top four mitigation strategies to protect your ICT system' are a subset of a wider suite of ASD's published cybersecurity strategies (see ASD's 'Strategies to Mitigate Targeted Cyber Intrusions – Mitigation Details'¹³).
 - b. The Australian Government Cyber Security Operations Centre's 'Questions Senior Management Need to be Asking about Cyber Security'.¹⁴ The Cyber Security Operations Centre (CSOC) is a joint agency under the responsibility of the Commonwealth Attorney-General and the Minister for Defence. In summary, the CSOC suggests that senior management should be asking the following questions:
 - i. What would a serious cyber incident cost our organisation?
 - ii. Who would benefit from having access to our information?
 - iii. What makes us secure against threats?
 - iv. Is the behaviour of our staff enabling a strong security culture?
 - v. Are we ready to respond to a cybersecurity incident?
 - vi. Has the organisation applied ASD's top four mitigation strategies? (See paragraph (a), above.)

¹¹ For a more detailed description of relevant documents and standards, please see my related article, 'Six cyber security standards you need to know about if you're a Company Director or Board Member', available at: www.maddocks.com.au/reading-room/six-cyber-security-standards-need-know-youre-company-director-board-member/

¹² Available at ASD's website: www.asd.gov.au/publications/protect/Top_4_Mitigations.pdf

¹³ Also available at ASD's website: www.asd.gov.au/publications/Mitigation_Strategies_2014_Details.pdf

¹⁴ Available at: www.asd.gov.au/publications/protect/senior_management_questions.htm



Conclusions

There are good business and legal reasons for franchisors and franchisees to attend appropriately to cybersecurity issues.

This article has sought to identify some of the key cybersecurity regulatory issues, and to point readers in the direction of additional resources containing further relevant information. ● ● ●



A healthy appetite for success

AN INTERVIEW WITH MARLIES AND JAI HOBBS, CO-FOUNDERS OF PALEO CAFÉ

Paleo Café Co-Founders Marlies and Jai Hobbs's clear vision and passion for their health food café franchise has been recognised with accolades, including Ms Hobbs being named the Franchise Woman of the Year at the MYOB FCA Excellence in Franchising Awards for 2015, and Mr Hobbs taking home runners-up honours at the International Franchise Association's (IFA) global NextGen in Franchising Competition for young franchisors this past February.

From opening their first café in Cairns four years ago to a partnership with celebrity chef and paleo diet advocate Pete Evans, it's been a whirlwind journey for these young franchisors, but there is no shortage of enthusiasm and ideas to continue building the business into the future.

The pair spoke to *The Franchise Review* about their journey so far, which began with the birth of the couple's first son, Troy, in June 2011.



Paleo Café Co-Founders Jai and Marlies Hobbs with brand ambassador Pete Evans

'Troy was born with severe dairy intolerance and acid reflux,' says Ms Hobbs. 'He wasn't thriving, and it was quite soul-destroying and traumatic for everyone involved.'

'That experience gave me a wake-up call about the effects of food on the body. Once Troy went dairy-free, he started sleeping through the night, and I finally met the happy, content baby boy that he now is.'



It was the first step on a path that led the Hobbsses towards the paleo diet, which Ms Hobbs says also assisted her to overcome her own digestion problems and adult acne.

‘Within six weeks of going paleo, my skin cleared up for the first time in two years and my digestion problems were resolved for the first time in a similar period. Jai lost 10 kilos, and I lost eight kilos. We were absolutely overwhelmed by the results, and were really so excited to share the benefits of the lifestyle.

‘In about April 2012, I came home from shopping all over town one day for paleo ingredients, and said to Jai, “Wouldn’t it be great if there was one place you could go to where you could get a meal or healthy takeaway, or all the products that you needed? A paleo café would just be awesome”.

‘We registered the business name the next day, and it was one step after another. We took a few months to get our systems right and our food offering right. Our vision was always to open maybe two to three company-owned cafés before looking to franchise as a way of further growth,’ says Ms Hobbs.

But with a young family, Mr Hobbs’s commitment to his own finance business, and strong interest in the brand, the couple soon looked to franchising as their preferred model for expansion.

‘We realised that because of the high demand and our personal time and financial constraints, we needed to have people with a vested interest and skin in the game in order for the businesses to be successful. We thought franchising was a perfect solution for that,’ says Ms Hobbs.

So, in March 2013, Paleo Café was launched as a franchise opportunity, with the first franchised café opening in October 2013. Within a year, the business had grown to 12 cafés.

‘We learnt a lot through that explosive growth, and certainly got a great appreciation for the importance of finding the right franchisees, and also finding the right locations,’ says Ms Hobbs.

These early learnings resulted in a decision to take stock and consolidate the business, which included improving the corporate structure, and expanding the franchise support office with the appointment of General Manager Peter Goldsmith in August 2015, to help create a defined direction for the business.

Now with 10 Paleo Cafés in Australia, and a master franchisee opening the first Paleo Café in New Zealand in February 2016, the Hobbsses have built a solid foundation for continued success, with plans for further expansion and innovations in the pipeline.

One of the initiatives to grow the brand was the 2015 engagement of Pete Evans as the brand’s consultant chef and ambassador. It’s a partnership that has provided Paleo Café with a team of chefs who work on the menus and develop fortnightly specials for the franchise.

‘Pete’s input certainly has raised the credibility and the quality and consistency of the food that’s coming out of the cafés. It’s brought our brand and the quality of our head office team up to a quality, international business standard,’ says Ms Hobbs.



It's also been pivotal to the development of a new range of ready-made meals that, at the time of writing, were due for imminent launch and distribution – first through the Paleo Café network, and ultimately online.

'It's a really exciting project we've been working on as a joint venture with Pete, and hopefully it will provide the cafés with a unique and sought-after product that will be a great addition to their existing sales,' says Ms Hobbs.

Another innovation has been the development of an express model for Paleo Café, with a smaller footprint and smaller operating cost, which will form part of the next phase of growth for the franchise.

Mr Hobbs's success at the NextGen in Franchising Competition has provided further inspiration and information to drive the growth of Paleo Café.

A prize package that included attendance at the IFA Annual Convention in February provided Mr Hobbs with access to mentorship and advice from established Australian and international franchisors.

'There were so many tips and ideas to take back and implement in your own business, from listening to John O'Brien of Poolwerx talk about his recent expansion into the United States, to hearing from the incoming Chair of the IFA and multi-unit franchisee Aziz Hashim,' says Mr Hobbs.

'Their passion for business and franchising was infectious, but most surprising was their willingness to share all their learnings and help you along with your journey.'

'Throughout the event, franchisors and franchisees both echoed the importance of monitoring and improving unit economics while nurturing a winning culture. Franchise systems across all industries faced the same challenges, and building relationships with like-minded operators was instrumental to learning how we best grow our brand and culture,' Mr Hobbs says. ● ● ●



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Fire safety franchise powers up for growth

FCF Fire and Electrical Founder and Managing Director Jacob Foster was among 20 young franchisors – and one of two Australian franchisors – who were recognised as global winners of the International Franchise Association’s (IFA) NextGen in Franchising Competition for 2015.

The Franchise Review talked to Mr Foster about his journey from starting FCF Fire and Electrical in the regional Queensland town of Hervey Bay at the beginning of the global financial crisis in 2008, to gaining recognition on the global stage.

Like many entrepreneurs before him, Mr Foster’s idea for his business started small and local as he identified a need for an Australian fire protection business that provided its customers with the great service he believed he could deliver.

Franchising soon offered the solution to meet the demand for FCF Fire and Electrical’s services beyond the business’s origins on the Fraser Coast.

‘We started our expansion with a yearlong program of using a branch model, but realised that the after-hours service was missing,’ says Mr Foster.

‘Franchising held all the keys to helping other Australians run a business, and helping locals in their towns save on fire protection. Our after-hours problems disappeared with each franchisee more than willing to take on extra work, even if the calls came in after 5 pm.’

The network has now grown to 10 franchisees in 15 territories, while the office still runs the original franchise in a regional area, with an annual turnover of \$1.2 million.



Jacob Foster



The growth of FCF Fire and Electrical has also come with some valuable learnings for this franchising young gun, who can't overstate the value of gaining professional advice and support when starting out as a franchisor.

'Join the FCA and look for a mentor to assist your business, as everyone is very open and willing to help. We did this at the very beginning, and haven't looked back,' says Mr Foster.

'We all make mistakes, hit hard times and feel like this is maybe a bit too much. Just reach out to people who have done this all before. For me, Warren Ballantyne from Gutter-Vac has been great.

'Life balance is also very important. Work hard and fast when at work, but relax when you're with family and allow your brain to re-energise.

'I also believe in personal growth. I started out as a labourer on roofs after finishing school, then moved into a trade, became a fire certifier and am now a franchisor. This doesn't just happen overnight – you need to study to better your position,' says Mr Foster.

These philosophies have ensured that FCF Fire and Electrical has been built on strong foundations, and they have also assisted Mr Foster in his success at the IFA's NextGen in Franchising Competition.

Along with fellow young Australian franchisor Jai Hobbs, Co-Founder of Paleo Café, Mr Foster received a prize that included sponsorship from the FCA to attend February's 2016 IFA Annual Convention in San Antonio, Texas, including the NextGen Summit.

Mr Foster's NextGen success also gave him access to franchising mentors in the United States, who will be on hand as he embarks on the next stage of growth for his business.

'Being at the IFA Convention blew my mind,' he says.

'During the conference of 4000-plus top-level world franchisors and executives, I met some very remarkable people. One who stood out was Rick Yohn, Vice President of Franchise Operations at Mister Sparky (the largest electrical franchise system in the United States), who has agreed to help mentor FCF Fire and Electrical senior franchise staff into the future.'

Looking forward, Mr Foster plans a growth strategy to double the size of FCF Fire and Electrical this year.

'We believe nothing can stop us,' he says.

'Why? This month, our research and development has completed a yearlong trial of converting existing electrical contractors to our model. The biggest part is that we are backing ourselves by offering 100 per cent money back to new franchisees, and the franchisees keep the stock after 12 months. We know that if we take on an electrical business, we can better their business within 12 months, and if they aren't in a better position, they can have their money back.

'This isn't an offer we have taken lightly, as we have used our win at the NextGen competition to pitch to mentors in the United States, and they are keen to follow the progress, too.' ● ● ●

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Searching for marketing gold? Try search marketing

BY PETE CANE, MANAGING DIRECTOR, FULL MEASURE DIGITAL

Thanks to the ubiquity of digital technology, search marketing is integral to the ongoing success of all businesses. For franchises, the value of search marketing is seen most strongly in the field of franchisee recruitment. While there are numerous options for marketing your franchise to potential franchisees, search marketing is a unique channel in that it allows you to find people who are explicitly searching for your type of franchise or business opportunity. For most types of franchises, there are already people using Google to search for that type of franchise or business opportunity.

At a very basic level, there are two types of search marketing. There is search engine marketing (SEM), which is otherwise known as paid search, and search engine optimisation (SEO), which is also known as organic search. The simplest way to distinguish between the two, from a user's point of view, is that SEM dictates what is seen in the advertising section of Google (at the top of the page), and SEO informs what is seen throughout the rest of the search engine.



Pete Cane

The main goal of any search marketing campaign is to make your business highly visible on search engines such as Google. The main marker of success in a given campaign is in your proximity to the top of the first page of these search engines, as this is statistically the most-read, and most clicked-on, section of the search engine results.



SEM has many attractive qualities for a franchisor seeking to grow their business. There is a visible, measurable return on investment, and results of successful SEM campaigns can be seen within a very short time frame.

First Class Accounts is one franchise that has benefited greatly from investing in SEM and SEO. Understanding that SEO and SEM were important to its visibility, but also knowing that the franchise's experience in this area was lacking, the company sought the assistance of our search agency, Full Measure Digital, to aid with its efforts.

First Class Accounts' Franchise Recruitment SEM campaigns have been running for more than four years, and in that time the First Class Accounts recruitment team has seen thousands of potential franchisee leads generated as a result. More recently, successful SEO campaigns have also boosted the organic visibility of First Class Accounts, creating a strong and cohesive digital marketing platform for the franchise.

The success of First Class Accounts' franchise recruitment SEM campaigns is largely a result of two facets of SEM. These are keyword targeting, and the design and construction of specific goal-oriented landing pages.

Through comprehensive keyword research, it is possible to find the search terms that are most commonly used by potential franchisees. These keywords are then targeted in the SEM campaigns, so that when that keyword is searched for in Google, the paid advertisement will be shown.

When these paid search listings are clicked, the user is directed to the landing pages, which are designed with a very specific goal in mind. In the case of First Class Accounts, the goal has been to capture potential franchisees' contact details (leads) in exchange for downloading an information pack. These leads are then delivered to the franchise recruitment manager to convert to franchise sales.

SEM has many attractive qualities for a franchisor seeking to grow their business. There is a visible, measurable return on investment, and results of successful SEM campaigns can be seen within a very short time frame. SEM is also very flexible, as it is based on financial investment. For example, First Class Accounts has been able to increase spending on its SEM campaigns when a higher number of leads are required,

or to reduce spending at busy times, or at times that are not traditionally viable sales periods.

Where SEM is a payment-based model of search marketing, SEO is based on merit. Google has a set of complex algorithms that dictate the placement of websites in its search engine, but essentially, these algorithms are designed to reward organisations that can demonstrate their expertise in a particular field. This is shown through the relevance of the information that is available on the organisation's website to particular keyword searches.

First Class Accounts, for example, is focused on bookkeeping, and bookkeeping franchises in Australia. By focusing on a range of topics within these fields (dictated by in-depth keyword research), and by offering comprehensive information throughout its website and blog, First Class Accounts has been able to establish itself as an expert bookkeeping business. As a result, its pages are seen on the first page of Google for a range of bookkeeping-related keywords.

Where SEM offers an almost immediate return on investment, in terms of visibility, SEO should be seen as a long-term investment. Its successes are not confined to the duration of the campaign, but will continue as long as the optimised content on the website is relevant.

Through a combination of SEO and SEM campaigns, First Class Accounts has been able to garner a source of franchise leads that provides more than any other lead source within its organisation. By embracing technology and digital marketing, First Class Accounts has substantially increased its visibility for prospective franchisees. ● ● ●

Pete Cane is Managing Director of Full Measure Digital, a Melbourne-based boutique search agency. Full Measure Digital has established itself as an expert in lead generation, with extensive experience in the field and a comprehensive, data-driven approach to digital marketing across Google AdWords, Bing, Facebook, LinkedIn and more.

For more information, visit www.fullmeasuredigital.com.



helloworld taking travel to a whole new level

The way we research and book travel continues to change rapidly, yet for travel distribution group Helloworld Pty Limited (www.helloworld.com.au), a focus on good old-fashioned service and expertise supported by technology is proving to be a winner for franchisees.

While the helloworld brand is relatively new to the Australian market, the February 2014 launch combined four highly competitive networks: Harvey World Travel, Jetset Travel, Travelworld and Travelscene American Express.

The new retail brand, helloworld, was created to deliver independence and diversity for franchised, brand-carrying and independent travel agents and consumers in a rapidly changing industry. The decision was also fuelled by a determination to

capitalise on the business's size, to maximise economies of scale and to build traction for the group as a whole.

The consultation process with franchisees was extremely important in key areas of support, and in educating agents on the many advantages of the helloworld revolution.

'Clearly, building a new brand from scratch is a big decision,' says Julie Primmer, Head of the Helloworld Branded Network. 'In our case, it simply made sense to consolidate under one brand and maximise the benefits for our agents, shareholders and suppliers.'

'Our franchisees are based right across metro, regional, rural and remote Australia, with specialists in leisure and corporate travel. Their needs are as diverse as their customers, so we relied heavily on research and consultation with our franchisees and agents to make sure that Helloworld meets their needs now and in the future.'

The group's solution to embracing that diversity lies in three different models: a fully franchised brand, as well as associate and affiliate models.



 [It's] about making sure our agents have evolving technology that allows them to work smarter, and boost margins and returns 

'The speed with which technology is impacting upon our industry means that smart travel agents are looking to futureproof their businesses – and that's where Helloworld comes into play,' Ms Primmer says.

'It's more than just making sure consumers can find their local helloworld agent. It's also about making sure our agents have evolving technology that allows them to work smarter, and boost margins and returns.

'Australians spent a massive \$8.8 billion on mobile devices in 2015, so clearly we needed to be online, in front of consumers. Interestingly, while consumers do turn online to book simple transactions, we're seeing a strong trend across all age groups of a preference to deal with a real, live, experienced person. All it takes is one experience where you find yourself stuck in an endless call centre loop, or stranded somewhere because of a strike or a natural disaster and you can't get anyone to speak to you, and the value of a great travel agent becomes crystal clear.

'We've also invested heavily in growing customer service excellence across our franchisees' businesses, including through proprietary, network-wide training. Our research shows that more and more Australians, right across the age groups, are looking for tailored travel support rather than a one-size-fits-all approach.

'Franchising is the perfect solution for us, and for our agents, because it allows our agents to offer their customers the best of both worlds – the strength, scale and reach of Helloworld, and all the benefits of dealing with men and women who own their own businesses.'

Kris Rowe, owner of helloworld Lower Templestowe, agrees.

'Being part of the group allows us to concentrate on the day-to-day running of our business, without the headaches involved in organising deals with suppliers, arranging regular advertising, getting the brand into the marketplace, and all the other necessary administrative details,' she says.

'As a small business, our primary focus is to look after our clients and give them the most enjoyable and satisfactory experience possible, and having the brand behind us gives our customers a greater sense of confidence and security. In these times of global and financial upheaval, we need to be perceived




Julie Primmer

as a strong, viable, national organisation, and we believe that the helloworld brand gives us that, while at the same time [allowing us] to provide our clients the attention to detail and focus that only a small business delivers.'

Helloworld's largest branded member is the Hunter Travel Group, which employs 140 members of staff across 18 full-franchise, dual-branded and non-branded locations.

'There are many advantages to being part of a franchise,' says Hunter Travel Group Managing Director Brett Dann. 'Risk-avoidance through being part of a strong brand, national presence, operational support, store design, assistance with real estate, training, networking, procurement support, purchasing power – and the list goes on.

'We started off with one store and two staff, and now we're a multi-brand group of 18 locations with 140 staff. I've also always loved the mentoring advantage that comes from being part of a franchise group, which you don't get if you're an independent.' 



Events in focus:

franchisors share their international expansion experiences



Darren Wallis

Leading franchisors shared their experiences about expanding internationally at the FCA's recent Victorian Chapter International Expansion in Franchising breakfast. Breakfast panel facilitator Bruce McFarlane of Hall & Wilcox Lawyers shares his key takeaway messages from the event with *The Franchise Review*.

During April, the FCA hosted a fantastic event that focused on international expansion in franchising.

The breakfast featured a panel of speakers from franchise systems – all in different stages in their international expansion, ranging from new to established international businesses – who provided an opportunity for the engaged audience to learn from their successes and failures.

The panel members were Darren Wallis, CEO/Managing Director at G.J. Gardner Homes; Olivia Elsley, Global Business Development Manager at Retail Zoo; and Ben Styles, Managing Director at X-Golf Australasia.

The key message from the panel was that the success of an international expansion relies on a variety of factors, including:



Olivia Elsley

- the passion of the franchisor for international growth. It is a big commitment and is not something that can be achieved if there is only partial interest
- finding the right partner. This requires investing in getting to know the partner, by spending time with them both in their country and in Australia. The partner needs to understand not only the brand, but also the core values of the business
- the domestic business being in a position to absorb the cost of international expansion. This is not limited to the financial cost, but also costs in terms of resourcing, as key individuals in the business will constantly be travelling, relocating overseas or spending their time on international matters
- considering proximity and language barriers. New Zealand (for the most part) is the best country in which to start an international expansion, because of the favourable proximity to Australia and the fact that they speak the same language. Mr Wallis in particular stressed that it is easier to set up supply chains and systems, and to test all of the business needs, in a country that is only a few hours away
- being proactive and reactive. It is great to tackle international expansion with a structured program, but it is best not to discount territories or opportunities that come out of left field
- being prepared to fail.

This was a successful event, and the audience got a lot out of the experiences shared by the panellists. ●●●

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FCA Events Calendar

The Franchise Council of Australia holds numerous breakfasts, roundtables and education sessions across Australia. As a member of the FCA, you are entitled to attend some of these events free of charge, and some at member-only prices.

New South Wales

August

3 August: Roundtable – Territory Planning, Using Data to Make Better Business Decisions and Avoid Legal Claims

4 August: Education course – Introduction to Franchising

5 August: Education course – Managing Franchisee Underperformance

September

15 September: Education course – Effective Franchise Recruitment

16 September: Education course – Improving Franchise Advisory Councils

27 & 28 September: Education course – Foundation Field Manager Bootcamp

Queensland

July

6 July: Education course – Franchise Management Forum

12 & 13 July: Education course – Foundation Field Manager Bootcamp

21 July: Roundtable – Incorporating Government Subsidies into Franchise Training

21 & 22 July: Education course – Franchisee Financial Essentials

23 & 24 July: Event – Franchising & Business Opportunities Expo

August

9 August: Education course – Introduction to Franchising

11 August: Education course – Managing Franchisee Underperformance

18 August: Roundtable – Incorporating Government Subsidies into Franchise Training

September

6 September: Education course – Effective Franchise Recruitment

7 September: Education course – Improving Franchise Advisory Councils

15 & 16 September: Education course – Franchisee Financial Essentials

South Australia

August

17 August: Education course – Effective Franchise Recruitment

18 August: Education course – Managing Franchisee Underperformance

September

7 September: High Tea – Women in Franchising

Victoria

July

19 July: Breakfast – with the FCA Executive Chair

August

2 August: Education course – Introduction to Franchising

3 August: Education course – Managing Franchisee Underperformance

9 & 10 August: Education course – Structuring Your Support Team

10 August: Forum – Marketing Ideas and Innovations

17 & 18 August: Education course – Developing & Growing Your Franchise System

18 August: Forum – Developing or Evolving Your Model

26 August: Breakfast – panel discussion at Franchising & Business Opportunities Expo

26–28 August: Event – Franchising & Business Opportunities Expo

30 & 31 August: Education course – Staying Connected with Your Franchisees

September

13 September: Education course – Effective Franchise Recruitment

14 September: Education course – Managing the Performance of Your Team

14 September: Education course – Improving Franchise Advisory Councils

15 September: Education course – Bullying, Harassment and Discrimination

20 September: Education course – Developing Your Leadership Brand

20 September: Breakfast – Women in Franchising

22 September: Forum – Dispute Resolution

Western Australia

July

7 July: Monthly Coffee Catch-Up – Achieving Franchisee Compliance

15 July: FCA Excellence in Franchising Regional Awards – WA Awards Presentation Dinner

August

4 August: Monthly Coffee Catch-Up – The Science of Tenancy Mix and Site Selection

23 August: Franchisee Breakfast – On the Couch with Franchisees

September

1 September: Monthly Coffee Catch-Up – How to Grow Your Brand

Events held by and in conjunction with the Franchise Council of Australia are designed to be informative and educational, along with providing ample networking opportunities. Meet franchisors, management staff and experts in the sector to discuss issues relevant to your brand and your career.

***NB – Breakfasts, forums, roundtables and education courses are being added to the national calendar all the time. To see the most up-to-date version of the calendar and register for events, go to www.franchise.org.au/event-calendar.html.**

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Franchising, Texas-style: the FCA's 2016 United States Study Tour



First stop of the FCA Study Tour – Sport Clips. From left to right: Mark Kartarik, President and Board Member, Sport Clips; Simon Heggen, Education Manager, FCA; Deb Farnworth-Wood, Managing Director and Founder, Australian Skin Clinics; Gordon Logan, CEO and Founder, Sport Clips; Peter Fiasco, Franchise Development Manager, Hairhouse Warehouse; John Sanders, CEO, HyrdoKleen Australia; and John Longmire, Just Cuts multi-unit franchisee.

Following on from the Franchise Council of Australia delegation's trip to the International Franchise Association (IFA) Convention in February, five franchisors continued their learning experience as part of the FCA's 2016 United States Study Tour.

Beginning in San Antonio, Texas, and travelling through Georgetown and Waco before concluding in Dallas, Texas, the Study Tour provided an opportunity for the group to meet with founders and executives of some of the largest and most successful franchise systems in the United States and the rest of the world.

Franchise brands that were visited on the tour were: Sport Clips, a chain of more than 1300 haircut salons; The Dwyer Group, the holding company of 11 service-based franchise organisations; Safeguard, a franchise with a network of more than 290 distributors; QSR chain Church's Chicken; 300-plus-store sandwich franchise Which Wich; FASTSIGNS®, a sign-making franchise with more than 590 locations globally; and the world's largest commercial cleaning franchise company, Jani-King.

Here, two of those franchisors share their experiences and key takeaway messages from the three-day tour through Texas.

Peter Fiasco, Franchise Development Manager, Hairhouse Warehouse

What stuck out through the journey is simply how much more scalable franchising is in the United States. We all know this to a degree back home here in Australia, but when you get into these companies that are actually doing it and living it daily in the United States, you really see how they scale their businesses.



The Australian delegates on the Study Tour



Catherine Monson, CEO, FASTSIGNS® in the FASTSIGNS Hall of Quotes

There were a lot of differences that I observed between the way franchising is done in the United States versus Australia. Firstly, we sometimes complain in Australia about the over-regulation that we have to comply with. Yes, we do; however, we have a lot to be thankful for as franchisors in this country. Our Franchising Code of Conduct at the very least gives us all one blanket rule that we need to comply with across all states. It's not so simple in the United States. There, they need to comply with different sets of regulations across all of the states. In fact, we met several who have opted to stay out of certain states to avoid the costs associated with operating their franchises there.

In all, we visited seven different companies that represent around 16 franchise brands that are operating across the United States, and internationally, as well.

There were several nuggets of wisdom that all of the members of the tour group took from each; however, the highlights and the businesses that stood out for the tour group in the end were the brands that demonstrated strong culture and values.

Culture eats strategy for breakfast, and this was evident from the moment we walked into the office of a new sandwich brand named Which Wich, and received an amazing welcome. The entire team came out to welcome us, and the welcome included an introduction, a chant including music, and party poppers. It was truly memorable. As we went around the office, their culture was evident everywhere, from the artwork purposely chosen and placed in the office, to the quotes and plaques around the space.

Another office we visited in Dallas that we all enjoyed was FASTSIGNS®, which is known as SIGNWAVE in Australia. The strength of their culture was evident straight away, through the leadership of their CEO, Catherine Monson. Ms Monson joined the brand in 2009, and has since turned the brand around – and she puts this down to some really simple things: people and relationships.



The highlight for us at the FASTSIGNS® office was the Hall of Quotes. They have a long, white wall in one of their hallways, decorated with more than 100 quotes from all sorts of people. When you walk along that hallway, you can't help but stop and take some of it in. It is truly impressive in its simplicity.

An interesting thing about the culture is that FASTSIGNS® is a brand owned by private equity firm Levine Leichtman Capital Partners, yet it is able to maintain its strong culture. As Catherine puts it, 'I set the vision, goals and standards, and then work through my team to achieve them'.

What struck all of us on this trip was the wealth of information that all of our hosts were happy to share with us, and how graciously we were treated for the entire trip. The one thing that we all know in franchising is how open and helpful the franchising family is, and this extends to our US counterparts. If you are thinking of doing one of the study tours that is arranged through the FCA, contact Simon Heggen to find out more.

John Sanders, CEO, HydroKleen Global

I was simply amazed by the hospitality and the time we were given to exchange information with each of the franchise groups we visited.

They were all very candid with their answers to any questions we put to them, and we were given time at the end of each visit to ask pretty much any question we wanted to ask. All questions were answered without hesitation in pretty much every case.

Each franchise visit usually started with a comprehensive presentation of the franchise business model, how it started, and what they still wish to achieve within their group. This gave us a vivid insight into how we were performing with our own franchises.

My one major take-out from the whole study tour was this:

The United States has a population base of 330 million people, a minimum wage structure that is half of that of Australia, and generally a very positive attitude in relation to the creation of jobs by encouraging people to go into business for themselves, without creating too many barriers. In other words, if you are prepared to work hard, somebody will be willing help you reach your goal.

On the other hand, in Australia we are working with a population base that is one-fourteenth the size of the United States, with a land mass that is the same as the United States, and regulatory red tape and lending criteria that generally create many more hurdles than the average hardworking person wants to bother with!

The US business sector simply cannot comprehend our high wages (the highest in the world), our high rents, our lack of population and our red tape.

The positive from all of this is that when you take those factors into account, the more successful Australian franchisors and franchisees are generally punching well above their weight when compared to our US counterparts.

I think this is a real positive for successful Australian franchises that are thinking of venturing offshore, knowing that they will be sitting in the high-achievers category before they even get there!

In saying this, the US market is extremely competitive, and much due diligence needs to be carried out before you attempt the move offshore – it costs, and if you get it wrong it will hurt!

That said, all the franchise groups we visited were highly successful, which was why they were chosen for the study tour. You will only learn from those that are doing things better than you are, and I certainly learned a huge amount from these hardworking franchise groups, especially with regard to how each of them has developed their unique culture, which they were all passionate about – that was my biggest gold nugget of the study tour.

I would highly recommend attending the IFA Convention and the FCA's United States Study Tour to anybody who might want to expand their mind, and their business.

You meet a huge variety of businesspeople, from lots of different countries and cultures, who are more than happy to share their knowledge – this is cheap learning, and I will certainly be doing it again. ● ● ●



John Sanders, CEO, HydroKleen Australia with Giovanna Koning, CFO, Falcon Holdings and Aslam Khan, CEO, Falcon Holdings. Mr Khan is a franchisee with more than 300 Church's Chickens franchises.

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[1] 'Industry Report 2014', Value of Paper and Print.

[2] 'Creating connections that matter' 2013, Australia Post.

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Franchising success stories on show at the NSW/ACT Excellence in Franchising Awards

The Franchise Council of Australia (FCA) recognised franchising's best in New South Wales and the Australian Capital Territory at the Franchise Council of Australia's 2016 NSW/ACT Excellence in Franchising Awards presentations in Sydney on Monday 11 April.

Winners at the event included Daniel Mesiti and Anthony Stahl of Boost Juice, who were named the NSW/ACT Multi-Unit Franchisee of the Year; Chris Wall and Robyn Mitchell of Pizza Capers, Gungahlin, who took home the award for NSW/ACT Franchisee of the Year, two or more staff; and Shaun Birley and Sam Orders of InXpress, Sydney CBD, who won the award for NSW/ACT Single Unit Franchisee of the Year, less than two staff.



NSW ACT Franchise Woman of the Year Natalie Brennan



Sherwin Djamil (left) accepts his award from FCA Executive Chair Bruce Billson

Also successful on the night were Foodco's Natalie Brennan, who was named the NSW/ACT Franchise Woman of the Year; Melissa Moseley of Frontline Recruitment Group, who took home the NSW/ACT Field Manager of the Year award; and Soul Origin franchisee Sherwin Djamil, who won the NSW/ACT Franchisee Community Responsibility and Contribution award for 2016.

Natalie Brennan's passion for franchising is clear. Now Foodco's Head of Corporate Brand Support, Ms Brennan has been involved in franchising since her first part-time job at McDonald's, aged 15.

'Franchising is a way for people to gain skills and to be their own boss,' says Ms Brennan. 'I always say franchising teaches people to be a butcher, a baker or a candlestick maker. If you want to do anything, really, in this country, there will be a franchise network that can support you into that business.'



Shaun Birley (left) and Sam Orders (centre) with FCA Executive Chair Bruce Billson

'Helping the mums and dads, the young couples, and the people who are just passionate about business and what they do, and teaching them how do better at their business, is what keeps me going.'

Shaun Birley and Sam Orders are two such passionate franchisees. The pair purchased their InXpress franchise as soon as they graduated from university in 2013.

'We thought, our degrees will always be there, so why don't we have a crack at something ourselves?' says Mr Orders. 'And what better industry than franchising, where you're given a proven business model to follow?'

It's a decision that has resulted in the pair being recognised as the fastest-growing franchise within the Australian InXpress network in their first year of operation, taking home the network's award for largest overall growth three years running.

Mr Orders describes being named NSW/ACT Single Unit Franchisee of the Year, less than two staff, as more 'great recognition for the hard work we've put in for the past three and a half years since we've started our franchise. To be recognised externally by our peers and the franchising industry means a lot to us. We're very proud and very thankful for that'.

For Sherwin Djamil, the support offered by a franchise system was also a key attraction when deciding to become a small business owner.

'At first, [becoming a Soul Origin franchisee] seemed like an obstacle, because I'd never been a business owner before,' says Mr Djamil, who is the franchisee of two Soul Origin stores at Westfield Parramatta. 'But I realised that it was an opportunity, and I wasn't alone. Soul Origin had a support system, and that support system has taken me to where I am today.'

To Mr Djamil, winning the NSW/ACT Franchisee Community Responsibility and Contribution Award for 2016 is important recognition of his work with Parramatta charity Homeless Connect.

'It means the world to me that I can say I'm a business owner who loves to give forward and contribute,' he says.

Following their successes, all winners have qualified as finalists for the MYOB FCA National Excellence in Franchising Awards.

The QLD/NT Excellence in Franchising Awards were presented on Monday 8 February. The VIC/TAS Excellence in Franchising Awards will be presented on Monday 6 June, followed by presentations of the WA Excellence in Franchising Awards on 15 July, and the SA Excellence in Franchising Awards on 15 August.

The MYOB FCA National Excellence in Franchising Awards Gala Dinner will be held in Canberra on Tuesday 11 October at the culmination of the 2016 National Franchise Convention. ● ● ●

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What the new unfair contract terms regime means for franchising

BY BRUCE MCFARLANE, PARTNER, HALL & WILCOX; MICHELLE AGGROMITO, LAWYER, HALL & WILCOX; AND ALICE FORBES, PARALEGAL, HALL & WILCOX

The extension of the unfair contract terms regime is significant for both franchisors and franchisees, as many of the contracts used in the franchising relationship will now be captured.

As the current FCA Executive Chair and former Minister for Small Business Bruce Billson said in April 2015, when the government released the draft legislation, ‘The protections will give business access to a level playing field ... small businesses, which often face the same vulnerabilities as consumers, receive strong protections when contending with “take it or leave it” contracts’.

Provided that the arrangement between businesses meets the relevant criteria, the regime applies to all new contracts, pre-existing contracts that are renewed, and pre-existing contracts that are varied from 12 November 2016.

The current consumer unfair contract regime under the Australian Consumer Law and the Australian Securities and Investments Commissions Act 2001 (Cth) has been extended to



Alice Forbes



Bruce McFarlane



Michelle Aggromito

include standard form ‘small business contracts’.¹ The transition period under the Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Act 2015 (Cth) will expire and become operational later this year.²

For contracts to fall within the operation of the unfair contracts regime, two tests must apply. First, the contract must be considered as ‘standard form’, and second, it must fall under the ‘small business’ thresholds with respect to the up-front price payable and number of employees.

¹ See, for example, the Competition and Consumer Act 2010 (Cth), Schedule 2 (Australian Consumer Law), Part 2-3 and Australian Securities and Investments Commission Act 2001 (Cth) (ASIC Act), subdivision BA.

² Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Act 2015 (Cth).



First limb: standard form contract

There is no express definition of a ‘standard form’ contract; however, there are several factors that will be considered when determining whether or not a contract falls within this class.

Importantly, there is a presumption that a contract is ‘standard form’ when:

- there is uneven bargaining power between the contracting parties
- the contract was prepared by the stronger party before any discussion
- the weaker party is required to either accept or reject the terms of the contract
- the weaker party is given little or no opportunity to negotiate the terms of the contract
- the terms of the specific transaction are not taken into account.³

Second limb: thresholds

In order to be considered a contract with respect to a ‘small business’ contract, one party must employ fewer than 20 employees⁴ and one of the following conditions must be met:

3 Australian Securities and Investments Commission Act, subsection 12BK(2); Competition and Consumer Act, schedule 2, subclause 27(2).
 4 Number of employees includes full-time, part-time and casual employees.

- the duration of the contract is less than 12 months and the up-front price payable (including any interest) under the contract is less than \$300,000
- the duration of the contract is more than 12 months and the up-front price payable is less than \$1 million.

The up-front price payable is the total price payable under the contract, excluding any amount that is contingent on the occurrence or non-occurrence of a particular event.⁵ As such, royalties are excluded from this amount.

Unfair terms

For a term in a contract to be considered unfair, all of the following must be satisfied:

- the term must cause a significant imbalance in the parties’ rights and obligations under the contract
- the term is not reasonably necessary to protect the legitimate business interests of the party advantaged by the term
- operation of the term would cause detriment (whether financial or otherwise) to the weaker party if it were to be relied on.

Excludes employees of related companies or subsidiaries.
 5 Australian Securities and Investments Commission Act, subsection 12BK(2); Competition and Consumer Act, schedule 2, subclause 26(2)

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When determining whether or not a term is unfair, the relevant factors that will be considered are the extent to which the term is transparent, and the contract as a whole

Importantly, the legislation raises a rebuttable presumption that a term of a contract is not reasonably necessary in order to protect the legitimate interests of the party that would be advantaged by that term, unless the party can prove otherwise.⁶

When determining whether or not a term is unfair, the relevant factors that will be considered are the extent to which the term is transparent, and the contract as a whole.⁷ A term will be considered transparent if the term is expressed in reasonably plain language, is legible, is presented clearly, and is readily available to any party affected by the term.⁸

Examples of terms in franchise agreements that may be considered unfair include clauses permitting:

- termination by the franchisor without cause
- unilateral variations by the franchisor
- fines/liquidated damages for breaches by the franchisee
- broad indemnities provided in favour of the franchisor
- limits where action can be taken against franchisors
- compulsory acquisition of franchises at less than the market rate.

Terms that will be excluded from these provisions include clauses that define the subject matter of the contract, set the up-front price payable, or are required – or those expressly permitted by other laws.⁹

An example of an excluded clause from the unfair contracts regime may be the 14-day disclosure period that is required under the Franchising Code of Conduct, or the compulsory seven-day cooling-off provisions.¹⁰

⁶ Australian Securities and Investments Commission Act, subsection 12BG(1); Competition and Consumer Act, schedule 2, subclause 24(4).

⁷ Australian Securities and Investments Commission Act, subsection 12BG(1); Competition and Consumer Act, schedule 2, subclause 24(2).

⁸ Australian Securities and Investments Commission Act, subsection 12BG(1); Competition and Consumer Act, schedule 2, subclause 24(3).

⁹ Australian Securities and Investments Commission Act, subsection 12BG(1); Competition and Consumer Act, schedule 2, subclause 26(1).

¹⁰ Competition and Consumer (Industry Codes—Franchising) Regulation 2014 sch 1, part 2, div 2, cl 9.

If a term is found to be unfair, that term will be void. If the remainder of the contract is still capable of operating, it will continue to bind the parties.¹¹ Small businesses may apply to the Federal Court or the ACCC (to apply to the Federal Court on their behalf) seeking a declaration that the term is unfair. Once a declaration is obtained, the small business may either seek an injunction preventing its enforcement and/or seek compensation against the party that attempts (or has attempted) to enforce it.

Next steps for franchisors

For franchisors, it is important that contracts – especially the franchise agreements – are reviewed in the context of the regime. Helpful questions to ask in this process include:

- Do we or the other parties with whom we contract employ less than 20 persons?
- Do the contracts fall within the ‘up-front price’ thresholds?
- Would the contracts be regarded as ‘standard form’ contracts?

If a relevant contract meets the criteria, franchisors need to review the contracts to identify significant imbalances and determine if all clauses are reasonably necessary for their legitimate business interests. To avoid noncompliance with the regime, it may be necessary to redraft borderline clauses or add additional clauses to provide greater clarification within the agreement.

Next steps for franchisees

Although the regime is primarily relevant to franchisors, it is important that franchisees are aware of their rights with respect to contracts to which they are a party.

It may be relevant when entering into a new agreement, or varying or renewing an existing agreement, to consider whether any of the terms are ‘unfair’. Importantly, franchisees should note that if a franchisor attempts to rely upon or enforce an unfair term, the franchisee may apply for a declaration that the term is unfair. ● ● ●

¹¹ Australian Securities and Investments Commission Act, subsection 12BG(1); Competition and Consumer Act, schedule 2, subclause 23(1)-(2).

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