

FranchiseReview

Official Journal of the Franchise Council of Australia



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on training and team
culture at Foodco

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FUTURE LANDSCAPES

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Welcome to the National Franchise Convention 2013 20 - 22 October 2013

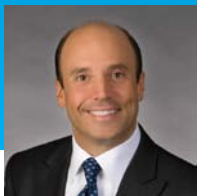
Following on from a stellar line up in 2012, there is an exciting program in development this year. We are pleased to announce Guy Russo, Managing Director of K-Mart, Steve Romaniello, Chairman of the International Franchise Association, Dean Pearson, Head of Industry Economics at NAB, and Dee Gibbon from the Royal Australian Air Force as just some of the keynote speakers at this year's Convention.

As always, there will be a focus on networking, and along with a lively exhibition hall, this year's networking night will take place in the beautiful surrounds of McLaren's Landing.

Add to this, some of Australia's best franchisors sharing their expertise and experiences in a panel setting and the wisdom of the Hall of Fame session, and NFC13 promises to be the pre eminent event in Australian franchising in 2013.

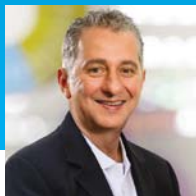
Early bird registrations are now open.

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Steve Romanillo
Chairman of the International Franchise Association

Steve Romaniello, CFE, chairman of FOCUS Brands and managing director of Roark Capital Group, Atlanta, Ga., is the new chairman of the International Franchise Association.



Guy Russo
Managing Director of K-Mart

Guy Russo was appointed Managing Director of the Kmart retail chain owned by Wesfarmers Ltd in Australia and New Zealand, in 2008. Formerly with the McDonald's Corporation, Mr Russo served as Managing Director & CEO of the Australian business and President of McDonald's Greater China.



Deanne Gibbon
Royal Australian Air Force

Group Captain Deanne (Dee) Gibbon is a member of the Royal Australian Air Force, with significant experience working in strategic human resource policy development, training management, personnel capability and recruiting.



Dean Pearson
Head of Industry Economics at NAB

Dean Pearson is the Head of Industry Economics at NAB and has over 20 years experience in analysing the economy and assessing the implications both in Australia and globally.

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FranchiseReview

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FRANCHISE COUNCIL OF AUSTRALIA

Survival of the fittest



New report shows pre entry information stronger in franchising than wider small business

FCA Chairman, Michael Paul

Following the commencement of the scheduled 2013 Franchising Code of Conduct review, along with a Federal election looming, it is understandable that there is an increased focus on regulation in our sector this year.

Around the same time of the release of the Wein report, containing 18 recommendations for improvements to our national Code, new research came out of Griffith University around the survival factors affecting people in small business, *Survival of the fittest: The performance of franchised versus independent small business during economic uncertainty and recovery*.

The survey was conducted over a two-year period and measured 20 survival factors and their impact on both franchisees and independent small business owners during the global financial crisis.

Interestingly, for a report conducted between 2010 and 2012, both the franchisee and independent respondents did not feel the economic climate was a major factor in their success or failure.

What the research revealed was that personal factors such as motivations, personality, decision making autonomy and adaptability were more likely to affect business survival than external factors.

The report also showed that successful franchisees believed that sufficient information was available to them, spent considerable time in researching the business opportunity, sought considerable external guidance and were actively and personally involved throughout the evaluation phase. On the other hand struggling or failed franchisees believed that available information was insufficient and had either underutilised or discounted obtaining independent external advice.

The report highlighted that it was apparent that successful franchisees exerted significantly more effort in conducting adequate due diligence than struggling or exited franchisees.

This validates what we at the Franchise Council of Australia have been encouraging for years. Due diligence. The more research you undertake before investing in a franchise or any other kind of business, the more realistic you will be in your expectations – and the more likely you will be to succeed.

One of the great things about franchising as a business sector in Australia is the sheer abundance of information that is available, both to those already operating in franchising, and those looking to get their foot in the door.

At the time of writing, the Federal Government is conducting a consultation period on the results of the Wein report. What this research shows us is that while many of the recommendations to come out of the report are worthwhile and will enhance our sector, further legislative intervention at the pre-entry level is not necessary.

“ One of the great things about franchising as a business sector in Australia is the sheer abundance of information that is available, both to those already operating in franchising, and those looking to get their foot in the door. ”

Franchising is already a sector focused on education and transparency. This research confirms that not only is there adequate information on franchising as a business model available, but those who are prepared to make a proper effort at due diligence before investing are actually making use of it.

Another element reported on in the research was the level of understanding of the above information. While franchisees showed they were far more likely than an independent to engage a professional during their pre entry stage, there is still an issue with comprehension of obligations right across the small business sector.

Professor Lorelle Frazer of Griffith University's Asia-Pacific Centre for Franchising Excellence cited the contract stage as an area in need of attention.

"A better understanding of contractual obligations is also an area identified in the research as requiring greater attention from both franchisees and independent business owners."

Research like this is invaluable to franchisors and consultants in our sector. The greater insight into areas that are difficult for franchisees to understand, the more we can work with them to ensure their expectations are realistic, allowing the partnership the best possible chance at success.

This appetite for information is not unique to franchisees. As a sector we are very fortunate in the open way information is shared and we are able to learn from one another. It's been incredibly pleasing to see the brand names lending their knowledge and expertise to the expert franchisor panels at this year's National Franchise Convention. The program is shaping up to be one of entrepreneurial triumph, strategic leadership and technological heavy weights with speakers including Guy Russo from K-Mart, Steve Romaniello, Chairman of the International Franchise Association, Dan Pearson, head of industry economics at NAB and speakers from Google, PayPal and eBay.

I encourage all of you to mark the 20 – 22 of October in your diaries and plan a trip to the Gold Coast. See page 2 for more information on the program and to register. [fr](#)

“A better understanding of contractual obligations is also an area identified in the research as requiring greater attention from both franchisees and independent business owners.”

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Stephen Giles,
Deputy Chairman, FCA

Government's Expert Report¹ endorses Franchising and suggests Code Improvements

The Franchise Council of Australia has welcomed the outcomes and recommendations of the review of the Franchising Code of Conduct conducted by franchising expert Alan Wein.

The 221 page report is the most comprehensive analysis of franchise sector regulation ever undertaken. Importantly the review was conducted by an expert familiar with the fundamentals of franchising, and well respected by franchisors, franchisees and parliamentarians of all persuasions. As a lawyer, former participant in franchising and one of Australia's leading franchise mediators Alan Wein brought to the review a deep understanding not only on the benefits of franchising, but what happens when disputes arise.

The evolution of franchising in Australia has been punctuated by a series of reviews that have helped chart the progress of the sector, and ensure Australia has not had to endure some of the growing pains experienced in other countries. The Franchise Council of Australia believes we boast the most effective regulatory framework in the world.

This view is largely endorsed by the Wein Report, which notes that the Australian franchise sector operates well, and the Franchising Code of Conduct is "a robust model" and "generally operates effectively within a very dynamic and difficult economic environment."² The Report notes the relatively low levels of complaint and disputation in the sector.

However there has been regulatory overload in recent years, with the worrying and unnecessary threatened intervention of State Governments into franchising notwithstanding the existence of a comprehensive Federal regulatory environment. Recommendation 17 of the Wein Report attempts to draw a line in the sand in relation to what the FCA considers to have been excessive regulatory activity in franchising in recent years. Alan Wein notes "it has been a clear and consistent message during consultations that, following the outcomes of this review process, there should be a moratorium of sorts on further reviews of the Code."³ Accordingly, he recommends that "there should not be another review of the Code for a minimum of five years after any amendments to the Code take effect."⁴

The Franchise Council of Australia has worked collaboratively with Alan Wein, the Office of Small Business and the ACCC to endeavour to achieve a largely consensus outcome.

That has involved some compromises on our part, notably in the area of good faith and increased ACCC penalties.

However a close study of the Wein Report will see that many of the recommendations reflect suggestions we have made in our submission, or have supported in our discussions with Alan Wein during the review.

Importantly it appears the Wein Report has bi-partisan support at Federal level, and makes it extremely difficult for State Governments to justify any regulatory intervention at a State level. The Wein Report noted that submissions to the Review were overwhelming in their support for the retention of a single, national regulatory scheme, commenting that "evidence clearly indicates that a national system reduces duplication, red tape, uncertainty, compliance costs and ensures franchisors are in the best position to develop and maintain an effective national business model."

The Report has rejected calls for mandatory extension of franchise agreements, and compensation at end of the franchise term. Alan Wein considered the issues at length before commenting that "there should not be a general overarching right to compensation for franchisees at the end of a fixed term franchise agreement.

¹ "The Wein Report" is the Alan Wein Review of the Franchising Code of Conduct: Report to the Hon Gary Gray AO MP, Minister for Small Business, and the Hon Bernie Ripoll MP, Parliamentary Secretary for Small Business.

² Letter from Alan Wein 30 April 2013 to the Minister and Parliamentary Secretary, Wein Report, page i

³ Wein Report p 167.

⁴ Recommendation 17, p167.

“The Wein Report contains a total of 18 recommendations to government, including the insertion of the common law duty to act in good faith into the Code.”

Making such a recommendation would substantially and fundamentally change long established legal principles of property and contract law. There would also be a risk of greater costs and uncertainty in the industry and possible unintended consequences from any change to contractual rights.⁵

Similarly the Report has adopted the FCA’s suggestion for the incorporation of the common law duty of good faith into the Code rather than some new and different definition of good faith.

Alan Wein also expressed his desire to see franchisors and franchisees have the benefits of pre entry and ongoing education, noting that he saw a strong role for the industry to play in this respect. The FCA has championed franchising education, and is keen to have Government support to extend our pre-entry and ongoing educational initiatives.

The Wein Report has suggested a range of improvements aimed at “ensuring outcomes that all reasonable parties would agree produce fairness and enhance confidence in commercial dealings” and “simplify some aspects of the industry’s regulation, to ensure

less red tape and improve clarity in compliance requirements.” The FCA supports these aims, and is keen to continue to work with Government and the ACCC to ensure these aims are realised.


The Wein Report contains a total of 18 recommendations to government, including the insertion of the common law duty to act in good faith into the Code, and the introduction of civil pecuniary penalties for breaches of the Code. There are also a number of recommendations aimed at addressing specific problematic areas such as the issue of franchisor failure, simplifying compliance and improving regulatory certainty. Wein notes that “No recommendation has been made that franchisees receive an exit payment or goodwill payment at the end of the term of their franchise agreement,” as “this would interfere with fundamental principles of contract and property law. However, a recommendation has been made relating to the use of restraint of trade clauses in the context of franchisors not renewing franchise agreements in certain circumstances.”


The Franchise Council of Australia has cautiously supported the vast majority of 18 Recommendations, noting that it is important that the actual amendments to the Code are carefully drafted to reflect the reasoning contained in the Wein Report and avoid any unintended or unreasonable consequences.

The FCA still considers that there would be value in enabling the Australian Competition and Consumer Commission to grant exemptions from strict Code compliance or modify Code compliance requirements, as the franchise model is applied across a vast array of different businesses and industries. The FCA is also concerned to ensure that any ACCC enforcement is fair, measured and cognisant of the fact that most franchisors and almost all franchisees are small businesses.

The FCA is keen to continue to work with Government on the detail of the Code amendments, including the recommended clarifications and changes to the Code included in Appendix D to the Wein Report. These clarifications and changes largely reflect contributions made by the FCA’s Legal Committee as part of the FCA’s submission.

Continued over page



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5 Wein Report p 109.

6 Wein Report Executive Summary page vii.

Summary of Recommendations and FCA Comments

The Recommendations of the Wein Report are summarised below.

1.	Clause 20A of the Code be amended so that a franchisor is to provide a disclosure document to a franchisee if it is the franchisor's intention to renew a franchise agreement. This enables the franchisee to consider the disclosure information before deciding to exercise its option to renew.	The FCA supports this clarification to the Code, noting that many franchise systems already adopt this approach.
2.	The Code disclosure process for a foreign franchisor or a master franchisor should be simplified by requiring a prescribed shorter form of disclosure to be provided. The reduced disclosure document should include information such as the basic contact details and background of the foreign franchisor or master franchisor, the essential obligations that have been delegated under the master franchise agreement, information regarding intellectual property including the ownership or licensing arrangements that the franchisee will have rights to and what the impact will be on the sub-franchisee if the master franchisee is terminated or not renewed.	The FCA supports the Recommendation in principle, but considers some additional information should be disclosed. The FCA hopes to work with the Government to settle the precise wording of the amendments to the Code.
3.	The Code be amended to ensure that a franchisor is required to disclose the rights of the franchisor and franchisee to conduct and benefit from online sales, including any ability of the franchisor to conduct online sales.	The FCA supports this improvement to the Code.
4.	The Code be amended to remove Annexure 2 (Short form disclosure document for franchisee or prospective franchisee).	The FCA supports this amendment to the Code.
5.	<p>The Code be amended to require franchisors to provide prospective franchisees with a short summary of the key risks and matters they should be aware of when going into franchising, based on the following principles:</p> <p>a. The summary should be generic (as per the existing warnings in item 1 of Annexure 1 to the Code);</p> <p>b. The summary should provide more detail than the current item 1 of Annexure 1 to the Code, but should not be more than one to two pages in length;</p> <p>c. The summary should be a standalone document rather than incorporated into the disclosure document; and</p> <p>d. The summary should be provided to franchisees at their first point of contact with a franchisor (that is, at the time of enquiring about a franchise opportunity).</p>	The FCA has already prepared a draft Risk Statement and intends to work collaboratively with the ACCC and the Government to give effect to this Recommendation.
6.	<p>The Code be amended to:</p> <p>a. Provide franchisees and franchisors with a right to terminate the franchise agreement in the event that any administrator of the other party does not turn the business around, or a new buyer is not found for the franchise system, within a reasonable time (for example 60 days) after the appointment of an administrator. It should be made possible for the courts to make an order extending this timeframe in appropriate cases. It should also be clear that the parties can negotiate a right to terminate at an earlier stage due to the franchisor's failure.</p> <p>b. Ensure the franchisees can be made unsecured creditors of the franchisor by notionally apportioning the franchise fee across the term of the franchise agreement, so that any amount referable to the unexpired portion of the franchise agreement would become a debt in the event the franchise agreement ended.</p>	The FCA believes that this Recommendation needs adjustment. It is vital to ensure that any proposed amendment to the Code does not impact on the willingness of banks to lend to the franchise sector. Similarly there needs to be broad consultation with insolvency practitioners. The FCA is also concerned that giving franchisees an express right of termination may impact on existing franchisees that wish to remain in the franchise system, and may lead franchisees to mistakenly believe they should pursue termination when it is in their best interests to continue with a proven brand and system. The FCA does not support this Recommendation at this point.
7.	The Code be amended to prohibit franchisors from imposing unreasonable significant unforeseen capital expenditure. 'Unreasonable' and 'significant' should be defined, with a view to a franchisor being able to demonstrate a business case for capital investment in the franchised business.	The FCA queries the necessity of this Recommendation, and whether it is appropriate for regulation to intervene in this area of business. It is critical that franchisors remain able to continuously improve the franchise system and introduce new technology. The FCA believes that it would be extremely difficult to draft provisions that gave effect to the intent without creating considerable and unnecessary uncertainty.

8.	<p>The Code be amended with respect to the administration of marketing funds. Notably the Recommendation proposes that a franchisor should separately account for marketing and advertising costs, and contributions to marketing funds from individual franchisees should be held on trust for franchisees. Although the franchisor is still to have wide discretion as to how to expend the funds, company-owned units must be required to contribute to the fund on the same basis as franchised units and the marketing and advertising fund should only be used for expenses which are clearly disclosed and which are legitimate marketing and advertising expenses. A once yearly independent audit should be conducted on marketing funds over a certain threshold value, with no capacity for franchisees to vote against such an audit, and the results of the audit (where applicable) and other detailed information about the expenditure of marketing and advertising funds should be made available to franchisees yearly.</p>	<p>The FCA acknowledges the intent of the provision, but questions the introduction of a formalised trust concept. This could have undesirable taxation and other consequences. Similarly the FCA considers that the current marketing fund provisions operate effectively, and already contain significant protections for franchisees. The FCA also considers that funds should be able to cover public relations, customer service initiatives, loyalty programs and other areas where common expenditure is desirable. The FCA queries whether such a prescriptive approach is warranted.</p>
9.	<p>The Code be amended to include an express obligation to act in good faith. Such an obligation should:</p> <ol style="list-style-type: none"> a. Extend to the negotiation of a franchise agreement, the performance of a franchise agreement, the performance of obligations under the Code, and the resolution of any disputes between the parties whether or not there is a valid franchise agreement at the time of the dispute; b. Not be defined, instead the unwritten law relating to good faith should be incorporated in a manner similar to the unconscionable conduct prohibition set out in section 20 of the Australian Consumer Law; c. Apply to both the franchisor and the franchisee or prospective franchisee and the agents of these parties; d. Not be able to be limited or excluded by any provision of the contract between the parties (such provisions should be declared void); e. Be clearly stated as not preventing a party from acting in its legitimate commercial interests; and f. Expressly exclude an argument that a franchisor has not acted in good faith because there is no term in a franchise agreement specifying a right of renewal. 	<p>The FCA suggested this amendment to address perceptions that the implied duty of good faith did not exist in all franchise agreements. It is vital that the Code wording be carefully drafted to reflect the intent of this Recommendation.</p>
10.	<p>The Code be amended to ensure that a written request from a franchisee that its details not be disclosed to prospective franchisees has in fact been initiated by the franchisee, for example by prohibiting a franchisor from initiating, procuring or encouraging such a request from a franchisee.</p>	<p>The FCA supports this Recommendation.</p>
11.	<p>That subclause 20(4) of the Code be amended to effectively extend the time period for a franchisor to give consent to a request for transfer to 42 days after the request was made, or all information reasonably required by the franchisor under the franchise agreement has been provided, whichever is the latter.</p>	<p>The FCA supports this clarification, which helps ensure a franchisor is not deemed to have given consent when the franchisee has not provided sufficient information.</p>
12.	<p>The Code be amended to state that, if all of the following conditions are satisfied:</p> <ol style="list-style-type: none"> a. the franchisee wishes to have the franchise agreement renewed on substantially the same terms; b. the franchisee is not in breach of the agreement; c. the agreement does not contain provisions allowing a franchisee to make a claim for compensation in the event that the franchise is not renewed; d. the franchisee abides by all confidentiality clauses in the agreement and does not infringe the intellectual property of the franchisor; and e. the franchisor does not renew the franchise agreement; <p>any restraint of trade clauses in the franchise agreement which prevent the franchisee from carrying on a similar business in competition with the franchisor, are not enforceable by the franchisor against the franchisee.</p>	<p>The FCA cautiously supports this Recommendation, particularly in the context of the Review's rejection of any form or end of term compensation. Although the FCA would prefer no regulatory change in this area, the FCA considers this to be a workable compromise in all the circumstances.</p>

<p>13.</p> <p>a.</p> <p>b.</p>	<p>The Code should be amended to provide that clause 29(8) applies to participation in any alternative dispute resolution process whether under OFMA, state small business commissioners, privately retained; court appointed or otherwise.</p> <p>Attribute the legal costs of dispute resolution to a franchisee unless ordered by a court;</p> <p>require a franchisee to litigate outside the jurisdiction in which the franchisee's business primarily operates.</p>	<p>The FCA supports this Recommendation.</p>
<p>14.</p> <p>a.</p> <p>b.</p> <p>c.</p> <p>d.</p> <p>e.</p> <p>i.</p> <p>ii.</p>	<p>The <i>Competition and Consumer Act 2010</i> (the CCA) be amended to:</p> <p>Allow civil pecuniary penalties to a maximum of \$50 000 to be available as a remedy for a breach of the Code;</p> <p>Allow the ACCC to issue an infringement notice for a breach of the Code;</p> <p>Allow the ACCC to use its powers under section 51ADD of the CCA (its random audit powers) to assess a franchisor's compliance with all aspects of the Code, not just to require the production of documents created under the Code;</p> <p>Include a breach of the Code in the contraventions for which the court may make an order under section 86E (Order disqualifying a person from managing corporations); and</p> <p>Specify that the court can make franchising specific orders under section 87, including orders requiring a franchisor to:</p> <p>give a royalty free period to a franchisee affected by a breach of the Code; and</p> <p>pay a sum of money specified by the court into any marketing or cooperative fund applicable to that franchise system.</p>	<p>The FCA cautiously supports this Recommendation, and looks forward to working with the ACCC to ensure its enforcement policies match the intentions in provided the ACCC with better enforcement powers. In discussions with the FCA the ACCC has indicated its intent only to seek to impose penalties in cases of flagrant and material breach. Similarly infringement notices will be used sparingly, and recognising that most franchisors and almost all franchisees are small businesses.</p>
<p>15.</p>	<p>An analysis of the impact of a minimum term and standard contractual terms for motor vehicle agreements should be undertaken prior to a future review of the Code.</p>	<p>The FCA has no view on this Recommendation.</p>
<p>16.</p>	<p>There should not be another review of the Code for a minimum of five years after any amendments to the Code take effect in response to this report.</p>	<p>The FCA supports this Recommendation.</p>
<p>17.</p>	<p>The Code be amended to make the policy intent of the provisions clearer, remove ambiguities, and improve consistency and certainty of industry practice. A suggested list of provisions and possible changes is set out in Appendix D: Technical or minor changes to the drafting of provisions of the Franchising Code.</p>	<p>The FCA submission contained a number of requests for clarification and improvement, and is delighted the Review has endorsed its request for legislative clarification. The FCA hopes to work with the Government to settle the precise wording of the amendments to the Code.</p>

This article has been prepared by FCA Deputy Chairman and Norton Rose partner Stephen Giles.

*On 17 June 2013, the Federal Government released a consultation paper on the findings of the Wein report. **This can be found here** [fr](#)*

Free online resources for your franchisees



Jennifer Moltisanti, ATO

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Currently under development is our new website with easy to access information and support options for small businesses. Small Business Assist is a new online tool in development that will provide an easy online pathway for small business to access information, calculators and tools, with a launch expected in late July. [fr](#)



FCA reaffirms support for World Franchise Council in Beirut



FCA deputy chairman Jason Gehrke alongside Brazil Franchise Association institutional director Fernando Tardioli, with an observer in the background.

The Franchise Council of Australia has renewed its commitment to the World Franchise Council, and participated in its most recent meeting in Lebanon in the Middle East.

The World Franchise Council (WFC) is an association of 45 national franchise bodies such as the Franchise Council of Australia (FCA), and similar organisations from other continents including Europe, Asia, Africa and North and South America.

It was formed in 1993 and exists to support the development and protection of franchising, and to promote a collective understanding of best practice in fair and ethical franchising worldwide.

WFC members meet twice a year, with member countries nominating to host meetings that are often held in conjunction with their own franchise conferences or exhibitions.

FCA deputy chairman Jason Gehrke attended the three-day WFC meeting in April hosted by the Lebanese Franchise Association in Beirut, the capital of Lebanon.

“As one of the few countries with national franchise legislation, the WFC is important to Australia to promote franchising best practice and the capabilities of Australian franchise systems to an international audience,” says Gehrke.

“As one of the few countries with national franchise legislation, the WFC is important to Australia to promote franchising best practice and the capabilities of Australian franchise systems to an international audience.”

The FCA has previously taken a leading role in the operation of the World Franchise Council, and is currently responsible for revitalising the WFC website www.worldfranchisecouncil.net.

Key outcomes of the WFC meeting in Lebanon included a resolution proposed by the FCA to conduct an international benchmarking survey of the operations of member franchise associations, the establishment of an online knowledge base for members, and a joint declaration by all participating countries encouraging further research, education and government support to encourage the growth of the international franchise sector.

Meeting host, the Lebanese Franchise Association (LFA), launched its national franchise conference in conjunction with the WFC meeting, and showcased the country's home-grown systems. WFC delegates also met Lebanese President Michel Suleiman, who helped launch the LFA's national campaign “Branding Lebanon: Branding a Nation”.

¹ FCA directors are volunteers and are not paid for representing the FCA. The FCA contributed to travel costs to participate in the WFC meeting.

“The next World Franchise Council meeting is scheduled for September in Malaysia.”

“Despite Lebanon’s relatively small size and population, it has a dynamic franchise sector with a surprisingly large number of home-grown systems in food and retail among other industries, and a dynamic franchise association under the stewardship of its president Charles Abid,” says Gehrke.

“The Lebanese Franchise Association are to be congratulated for their hospitality and for their vision for franchising via their Branding Lebanon campaign.”

The next World Franchise Council meeting is scheduled for September in Malaysia.

On 17 June 2013, the Federal Government released a constitution paper on the findings of the Wein report. This can be found here.

World Franchise Council:

www.worldfranchisecouncil.net

Lebanese Franchise Association:

www.lfalebanon.com



Delegates of WFC member countries at the WFC meeting in Beirut.



The WFC meeting was hosted by the Lebanese Franchise Association.



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NAB FCA Excellence in Franchising Awards

Franchising success

celebrated at NSW awards night

The Franchise Council of Australia hosted the NAB FCA NSW/ACT Excellence in Franchising Awards earlier this month.

The winners announced in front of a sold out crowd, at the Four Points by Sheraton, included Debb Meyer from Narellan Pools, who was awarded Franchise Woman of the Year, Anthony Hamod from Fastway Couriers Wollongong, who received Franchisee of the Year-two or more staff, and Field Manager of the year was awarded to Adam Moody from Wendy's Supa Sundaes.

Moody, who had worked as an accountant previously, but felt a draw to work in franchising, relishes the day to day dealings with business people in the Wendy's system.

"I like the interaction with different people, and taking on new challenges every day," he said.

Other winners on the night included Anthony Stahl and Daniel Mesiti from Boost Juice Bars and Salsa's Fresh Mex Grill, who received the Multi-unit Franchisee of the Year accolade for the second time, and Fiona and Danny Harvey, also from Narellan Pools, who were recognised for Franchisee Community Service.

Anthony Stahl and Daniel Mesiti explained the drive they had to achieve something more for their franchise by saying, "It (the submission process) allowed us to think about each individual part of our business in more detail. It gave us a really great snap shot of where we're at. The submission is quite thorough. When you identify gaps in your business, you want to chase them. It keeps you looking to the future."

Anthony Hamod was delighted after receiving his Franchisee of the Year- two or more staff award, and explained his staff made as much of a contribution to the franchise as he did.

"I think they would feel as though they won the award just as much as I did. They've already been text," he said.

Franchise Woman of the Year, Debb Meyer, was elated to receive an award that promotes the equal opportunity women have in franchising.

"To me, this award is a representation of the amazing things that women can achieve." she said.



Anthony Stahl, Simon Ovenden and Daniel Mesiti.

The awards, proudly sponsored by NAB were a night of celebration. Following the presentation of the trophies provided by Minit Commercial, guests were treated to after dinner speaker, Volleyball player, Kerri Pottharst.

The Olympic gold medallist told her story of triumph in the face of adversity and even had some of the guests walking on glass to conquer their fears!



Simon Ovenden NAB and Debb Meyer, Narellan Pools.

“It (the submission process) allowed us to think about each individual part of our business in more detail...”

Continued over page

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Fiona and Danny Harvey and Debb and Chris Meyer.



Simon Ovenden, NAB, Fiona and Danny Harvey, Narellan Pools.



Simon Ovenden, NAB and Adam Moody, Wendy's.

“To me, this award is a representation of the amazing things that women can achieve.”

At the time of writing, the South Australian awards were just about to be held. There are still four awards events in the FCA calendar:

Queensland: Friday 19 July, 2013

[Click here for more information](#)

Western Australia: Friday 9 August, 2013

[Click here for more information](#)

Victoria: Friday 30 August, 2013

[Click here for more information](#)

National: Tuesday 22 October, 2013
Jupiters Hotel and Casino

[Click here to register](#)

For more information on how to register, contact head office on **1300 669 030**.


NAB FCA Excellence in Franchising Awards 2013 WINNERS

Multi-unit Franchisee of the Year – Anthony Stahl and Daniel Mesiti, Boost Juice Bars and Salsa's Fresh Mex Grill, Chatswood

Franchisee of the Year -two or more staff – Anthony Hamod, Fastway Couriers, Wollongong

Franchise Woman of the Year – Debb Meyer, Narellan Pools

Field Manager of the Year – Adam Moody, Wendy's Supa Sundaes

Franchisee Community Service – Fiona and Danny Harvey, Narellan Pools, South Coast Illawara 



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Risk identification and minimisation



Chris Ristevski,
Aon Risk Services Australia

Could your business absorb a \$50,000 penalty for breaching the franchising code of conduct or worse still, a \$3million fine for breaching occupational Health and Safety legislation? Not many businesses can. With proposed changes to the franchising code of conduct as well as increased penalties for breaches of OH&S legislation, take steps to protect yourself now!

The following information will step you through some practical examples of how to identify and mitigate business risks thus providing some peace of mind that you have minimised your financial and indeed reputational exposure.

Whether you're a franchisor, a franchisee or indeed a supplier to the franchise sector, risk identification and minimisation should be an integral part of your business planning.

What can go wrong?

The simple answer is a great deal can go wrong.

Before you can start to develop a risk strategy, it is important to assess what risks you face and how they could impact your business if the worst should happen.

Take time to map out some potential scenarios that could substantially impact your ability to operate and then look to develop a strategy that minimises your exposure.

During 2012, the ACCC received 123 complaints against franchisors citing franchising code of conduct related issues.¹

For franchisors, allegations of wrongdoing against your business are quite common and some of these stem from your franchisees. Allegations can vary from disputes around earnings, investments costs and expenses, failure to support/train and encroachment. Unfortunately the pain does not stop there, you could also face some hefty fines and severe penalties for not adhering to legislative requirements around the operation of your business, including Occupational Health and Safety.

Did you know that 70% of all businesses close within 12 months of a major insurable loss?²

For franchisees, the risks are certainly similar to the franchisor. As an employer of staff, you are also exposed to OH&S and workers compensation issues as well as employment related complaints from your employees. Your biggest risk however relates to your assets and how adequately protected they are. What contingencies do you have in place in the event of a fire or flood? In the scenario above the primary cause of closure is usually that the subject had inadequate or no business interruptions cover.

Consider your obligations

Whether you are a franchisor or a franchisee, it is important to understand that you have numerous internal and external obligations. These obligations vary depending on your business, but largely they range from (but are not limited to);

Employees – ensuring that you provide a safe, equitable and professional working environment, free from bullying and harassment.

Statutory – making sure that you and your employees understand and abide by all legislation, including the *Competition and Consumer Act* and Occupational Health and Safety just to name a few.

Clients/Customers – you have a duty of care to your clients/customers to ensure your products and services are fit for purpose and you treat them in a fair and equitable manner.

Third parties – typically, this could be anyone from suppliers to the business, contractors, competitors or even visitors walking into your premises. You have a duty to ensure all of these parties are treated in a reasonable manner.

Ask yourself

How many of these questions can you answer without hesitation?

- Have I made a list of risk scenarios that could substantially impact my business?
- What risk management procedures do I have in place to minimise my property related, financial and people exposures?
- Do I have policies and procedures in place to ensure my staff are working in a safe environment?
- Do I have a business continuity plan in case of a major loss or disruption to my business?
- What are the costs to my business relating to staff absenteeism?
- Do I have adequate insurance protection (including business interruption) in the event of a major insurable event?
- When was the last time I reviewed my insurance program to ensure it was specifically tailored to the needs of my business

What's next?

You are certainly not expected to be an expert on all things risk or insurance. That's why it is important to speak to your insurance advisor to ensure all of your exposures are covered and you have a plan in place in the event of a major loss or disruption to your business.

For more information, you can contact Chris Ristevski from Aon on 03 9211 3149 or chris.ristevski@aon.com

¹ Data source: ACCC Small business, franchising and industry codes half yearly report, July – December 2012, No. 5
² Data source: Insurance Council of Australia 2011, Zurich Insurance Survey 2011

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Franchise Council of Australia does not offer financial advice or financial products and this flyer must not be construed as such. You should consider obtaining independent advice before making any financial decisions.



FRANCHISE COUNCIL OF AUSTRALIA

AON



Education

By Tony Iommazzo
General Manager, People
Wendy's

Wendy's commitment to training

A focus on franchisee and staff education not only serves to enhance efficiency and increase the bottom line, it also goes a long way towards creating positive brand culture. A couple of years ago, the team at Wendy's took an inward look at areas for improvement and installed a training process that lays the ground work for greater achievement at franchisor, franchisee and employee level. Here Tony Iommazzo takes us through the steps Wendy's have taken to ensure success.

The Need to Train

Wendy's realised some two years ago that there were elements of training identified through a significant training needs analysis and subsequent gap analysis that were holding the Wendy's team back.

The analysis identified that a range of store based operational areas and management level training at both the store and corporate level required updating. The goal being to establish a training solution that will close the skills and knowledge gap. To achieve this we created an overarching training framework known as The Building Better Futures Program.

The Building Better Futures program aimed to align corporate goals with building human resource capability. Training must reflect the specific needs of the business and should fit hand-in-glove with the company's strategic plan. We realised that it would be impossible to meet our corporate objectives without upgrading the skillset of our franchise and corporate workforce.



“With some 500 graduates over the past two years the outcomes have been really exceptional.”



The Training Process

Our initial training was aimed at developing technical skills in operations and retail. We also concentrated on developing interpersonal skills such as effective communication, dispute resolution, WHS, change management, people performance, quality management and team building.

The training was also designed to target entry level staff and the challenge here was to make learning as engaging, interactive and cost effective as possible to address the skill shortage which the retail sector is currently experiencing.

The immediate result is that the performance gap identified in our initial training needs analysis closes significantly and within a very short period of time we notice that our high performing stores start to outnumber average performers and all key KPI's start moving in the right direction.

The Solutions

We required a training partner with considerable retail and franchise experience. We have been very pleased with the customised training content tailored to Wendy's needs and the quality of resources and delivery. From Certificate III through to Advanced Diploma qualifications, Franklyn Scholar provides hands-on training that is nationally accredited and recognised through the Australian Qualifications Framework.

Our partnership ensures that there are no generic training materials and all of the training materials are bespoke to Wendy's. Importantly, our HR team along with our training partner have mutually developed the training content and assessment strategies. All this information is mapped to national qualifications and we ensure that there is sufficient rigour in the programs to attain a quality training outcome.

Measurements by Success

The training has been really complimentary to our business goals and it's delivered exactly what we hoped. Through the Building Better Futures Program, franchisees and our senior leadership team have observed and acknowledged that our franchisees and employees are approaching their roles in new and productive ways. Operational evaluations, marketing and operational compliance, communication, system skills and knowledge, franchisor/franchisee relationships and team work have all been enhanced. Additionally we have identified improved employee morale, increased supervisor involvement, personal commitment to 'doing it right the first time' and personal pride in the Wendy's brand.

With some 500 graduates over the past two years the outcomes have been really exceptional. Many of the trainees have gone beyond the Certificate III level and we have staff undertaking higher qualifications in retail management.

We also have a cohort that has completed the Retail Executive Program (a joint venture between Franklyn Scholar, Service Skills SA and Wendy's) that is underpinned by the Diploma in Retail Management and graduates can now proceed to a Master of Retail Management.

The partnership has transformed our training landscape and empowered individuals with the tools they need to rapidly and effectively learn new skills and be successful at Wendy's.



Working with Franklyn Scholar

All of the Franklyn Scholar team show commitment to training excellence in the implementation of national training arrangements. They demonstrate creativity, excellence and/or innovation in the design and development of processes or techniques to assist Wendy's in building overall operational and training effectiveness.

More importantly the Wendy's/Franklyn Scholar partnership creates mutual trust and a culture of success and these key factors not only builds a positive learning culture but is a catalyst for a very successful franchise business.

www.franklyn scholar.edu.au



Events



Many exhibitors and visitors were impressed by the fresh look of the Expo



Panel sessions were presented by FCA



The team from Express Mobile Services

Franchising & Business Opportunities Expo 'wows' the crowd in Sydney



Exhibition Manager Fiona Stacey

The renewed and re-energised Franchising & Business Opportunities Expo was a great success in Sydney, with more than 1000 highly motivated visitors streaming through the doors each day of the show from 14-16 June.

Many exhibitors and visitors were impressed by the fresh look of the Expo, which has a new organiser, Specialised Events, this year.

"We wanted to take the opportunity to give the show some extra zest, ensuring that the exhibitor stands and show features are as exciting as the industry they are here to showcase," says Exhibition Manager Fiona Stacey.

One of the highlights of the show was the Seminar Theatre, which had an impressive lineup of speakers from all facets of the franchising and small business arena.

“...the Expo was a platform for more than 70 successful Australian and international companies that were eager to share their success with potential investors and franchisees.”

They included Andrew Morello, winner of first season of The Apprentice Australia and now Head of Business Development at Yellow Brick Road; twice-named Franchisor of the Year John O'Brien from PoolWerx; DC Strategy's CEO Suzanne Jarzabkowska; and specialist Franchising consultant Sarah Cobb from Cariblue.

The Franchise Council of Australia (FCA) also presented fascinating daily panel sessions featuring a wide range of successful franchisors such as Chocolateria San Churro, Pack & Send, PoolWerx, First Class Financial Group, Plus Fitness and 7-Eleven.

Another popular feature was the Franchising Advice Centre, where visitors could book free one-on-one sessions with legal and financial experts from DC Strategy and Yellow Brick Road. Suzanne Jarzabkowska and her team from DC Strategy were busy over the three days meeting people from all walks of life who were seeking information or assistance.

“From purchasing a franchise, to turning a small business into a thriving network, to registering a trademark, to resolving a dispute in a current franchise relationship or understanding how to recruit the right franchisees – the Advice Centre had highly qualified and experienced consultants and lawyers available throughout the entire Expo, providing free advice and assistance,” she says.

Most importantly, the Expo was a platform for more than 70 successful Australian and international companies that were eager to share their success with potential investors and franchisees.

“I think the new management team for the Expo are great – so helpful and we really enjoyed working with them,” says Sarah Cobb from Cariblue.

“I thought visitors learned a lot – from our perspective they come to learn about franchising a business and we talked to lots of people who were looking for information and were able to help them – and I think they were very pleased at what they learnt and that it was possible.”


Fiona Stacey and the team from Specialised Events are looking forward to bringing the show to Brisbane in July and to Melbourne in August.

“Entry is free if you pre-register online, and there is an abundance of information available on every aspect of franchising and small business,” she says. “For visitors and exhibitors alike, it’s the best way to take some practical steps towards achieving your business goals.”

The Franchising & Business Opportunities Expo will open in Brisbane 20-21 July and in Melbourne 30 August - 1 September. Entry is \$15 at the door or free with pre-registration.

For more information go to www.franchisingexpo.com.au

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Bringing Learning to life



Greg Nathan,
Founder, Franchise Relationships Institute

Ray Croc, of McDonald's fame, apparently coined the phrase "When you're green you're growing and when you're not you rot!" It's a neat way of saying that progress in business, and in life, comes from an attitude of curiosity and the application of continuous learning.

Why the best learning sometimes hurts

In my experience, our most useful lessons don't come from reading books or attending courses. Rather the knowledge that makes us more effective is a result of experience, reflection and insight.

It works like this. We have an experience that highlights something we need to learn. (In other words, we stuff something up). For instance we unintentionally upset someone or fail to deliver on what we promised. That's the experience. When the dust settles, perhaps we think about what happened. Maybe we discuss it with a colleague or a friend. That's the reflection piece. And then hopefully the penny drops and we understand what prompted the unpleasant reaction from the other person, or what was missing that caused us to fall short in our delivery. That's the insight.

Sometimes books and courses can help us to make sense of our experiences by providing an explanation or a model about why things work the way they do. For example I regularly receive feedback from franchisees and franchisors who say my "Franchise E-Factor" model has helped them to understand why they have felt frustrated in their franchise relationships. Similarly I recall the thrill I felt when reading Jim Collins' book, "Good to Great", because his theories and models resonated with my real life experience.

This type of learning - combining experience with reflection and insight - is essential for anyone committed to maintaining their professional effectiveness. The world is constantly changing. If we don't continually adapt through learning, we're simply going to lose our ability to be useful to others in our professional and personal lives.

No more trips to the USA needed

Because many of the courses available fail to deliver this type of practical learning, I try to be discriminating in what I attend. It certainly helps if there is some quality control on who the presenters are, the content they are delivering and how they are delivering it. For this reason I applaud the FCA's recent decision to adopt the Institute of Certified Franchise Executives (ICFE) framework.

It was nine years ago that I started travelling annually to the USA to attend, and also to teach, some of these Certified Franchise Executive (CFE) courses.

This certification is highly valued in the USA where most senior franchisor executives and advisors have completed, or are in the process of completing, the program. I particularly like the fact that to maintain your right to be a CFE presenter you have to achieve a minimum participation satisfaction rating of 75%.

It's been a long and rather expensive path, but I'm pleased to have finally accumulated enough professional development points to achieve the CFE certification. I'm also pleased this qualification will now be in the reach of local franchisor executives and advisors who won't have to travel to the USA to earn their professional development points.

In keeping with a commitment to excellence, we have also taken the decision at the Franchise Relationships Institute to have our courses accredited to the ICFE learning standards. This means anyone attending our courses not only gains the benefit of quality learning, but can also earn CFE professional development points.

Here's to staying green and growing!



Greg Nathan is Founder of The Franchise Relationships Institute (FRI) and author of several popular franchising books including *The*

Franchise E-Factor and *Profitable Partnerships*. He is also the first Australian to receive the CFE certification. For more information on FRI go to www.franchisere relationships.com or you can contact Greg at gregnathan@franchisere relationships.com

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Tammy Ryder, National Training Manager, Hungry Jacks

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Bruce Myer, CEO, Lenard's Pty Ltd

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"We've gone mobile"





Franchisor interview



Serge Infanti,
Managing Director, Foodco

Foodco: Fine food and fine coffee through great training and team culture



Foodco has been delivering fresh food and fine coffee to customers all over Australia since 1989. Franchise Review caught up with Serge Infanti, head of Jamaica Blue, Muffin Break and Dreamy Donuts to find out what it is about Foodco that has customers wanting more all over the world.

How was Foodco born?

Foodco started with the Muffin Break brand in 1989, with our first store in Coolangatta, and it still remains in that same centre today. In 1992 we created a more specialised coffee chain called Jamaica Blue which opened in Westfield Miranda, and again that store remains there today operating successfully, and in the same location. The only other brand we own is Dreamy Donuts which we acquired in 2008.

So these brands weren't established prior to Foodco?

No, the two major brands, Muffin Break and Jamaica Blue were initiatives of ours, we started them. I think today we are one of the only Australian retail food companies to take two locally created retail brands successfully into international markets.

You've been with Foodco personally since 1991, where did you start with the business?

I started as a franchisee, after leaving a senior management position with IBM I decided to do something a bit different. I went back home to Queensland from Sydney, and took the brand (Muffin Break) to Queensland, and after some time as a franchisee, and four stores later, I joined Foodco as a State Manager in 1996.

In the late 90s I became the National Manager for development, in 2001 I became a Stakeholder and the Head of Development, and in 2007 I was appointed to Managing Director.

How has the business grown in that time?

When I opened my first store it was only our ninth store in Australia and Muffin Break was in its early growth stage, but today we have over 300 Muffin Breaks in Australasia, the UK and India and over 120 Jamaica Blues throughout Australasia, China, Singapore and the UAE. In the coming 12 months we will expand into Saudi Arabia and Malaysia and into the UK, where we currently only operate the Muffin Break system.

We have developed Muffin Break and Jamaica Blue significantly over the last 20 years, and for our brands to continue to remain relevant, and in such demand is a significant achievement. Maintaining relevance in such a competitive and sophisticated coffee market is not easy. Over 20 years I've seen many brands come and go, and it's a testament to our brands' strong points of difference, and their enduring brand values that they continue to be so sought after by both customers and franchise partners.

I'm extremely proud of our brands and thankful for my fantastic staff, suppliers and business partners who share my vision, passion and commitment. As good as I think our brands are, nothing will be achieved without passionate committed people. This wonderful culture is the principle reason for our success.

Where has interest from overseas been most surprising?

Both China and the UK have been interesting in different ways. In the UK I thought we'd be successful from day one. However, we spent 12 years building the brand and investing heavily, and it's only in the last few years that we have seen success finally coming our way.

We now have a strong brand that is in demand from customers and business partners, and is in a very strong financial position, but it's been 10 years of really hard work. Initially I wasn't sure what was going to happen in China but it was important for us to test the market. Again despite the challenges of the early years, Jamaica Blue is now one of the more prominent coffee chains in China. I'm delighted with our growth over there and I think the future potential for Jamaica Blue is fantastic, not just in China but in other fast growing economies.

How do you differentiate between Muffin Break and Jamaica Blue in a marketing sense?

In the early days there was a tendency to homogenise a little bit because of costs and trying to maximise synergies, but you learn a significant lesson when you're running a multi-brand, and that's never to homogenise the culture or the DNA of the brand, you need to keep them separate.

All brands have their own departmental structure and staffed by a different team of people with different skills, so there is little to no cross over in the marketing or operations. It's important that the customers don't see anything from Muffin Break filtering into Jamaica Blue or vice versa, and doesn't associate one with the other.

Jamaica Blue's marketing pitch is "fine coffees", how does the consumer perception between the two brands sit?

Jamaica Blue is about fine coffee and today, our product sales are still skewed to between 45% – 50% coffees. However, we learnt very early on that we needed to complement the fine coffee experience with a range of fabulous food, so our tag line is now, "fine food and fine coffee".

We do have a unique blend of food; we try to have the foundations of a strong franchising system, but have the delivery, range and execution of a quality independent café.

We tailor the Jamaica Blue food and beverage range to specifically target the demographic in that area, and try to deliver what the customers is after, which can differ greatly from site to site. This approach is somewhat different to the typical cookie cutter franchise system. I believe this approach provides us with the best of both worlds. The strong fundamentals of a successful café franchise and the flexibility to better meet the consumer's demand. This approach has made Jamaica Blue the unique system it is today.

Muffin Break's DNA starts with the concept of traditional wholesome product baked from scratch on site every day. It's a specialty bakery café focused on muffins, and the finest coffee available.

Continued over page



“ Before we even look at skills training, we need to make sure that a franchise partner has the right passion. ”

There aren't that many cafes that you go to today that can deliver on that promise, but we can, every Muffin Break you go to will have fresh product baked that day. We are fortunate that we don't have a major competitor for what we do, which I believe is recognition that we do it very well. It's an iconic food brand in Australasia, and I'm committed to making it so in the UK as well.

Is it part of the system that they bake on site?

Yes absolutely its mandatory in Muffin Break, we don't compromise on that at all.

What's the Foodco philosophy on training?

We want to equip our franchise partners with all the skills necessary to be successful in their business. We recognised very early on that the style of franchise partner that we are getting today is a little bit different to when I started back in 1991.

When I started my store in 1991 our training consisted of a couple of sheets of paper, and another franchisee helping me out for a couple of days, now our training is a lot more sophisticated. Before we even look at skills training, we need to make sure that a franchise partner has the right passion.

You're not going to be successful to the franchise unless you are instilled with a commitment to the culture and quality of the brand. We do that through education, bringing people in and familiarising them with the Foodco values, then move into skill based practical education. We have clearly defined education modules both online and in person that are focused on those three aspects of building culture, building skills and building loyalty and commitment.

You've recently overhauled your training processes, what sort of research went into that and what was implemented?

When we started our training centre, we replicated a state of the art store which could change from a Muffin Break, a Jamaica Blue and a Dreamy Donuts depending on who we were training.

Supporting our training store, we have other facilities such as the meeting rooms which are essential to classroom learning, and a large catalogue of online skill modules. Our "drive" training consists of two weeks and is very comprehensive. It covers every facet of how to run a café, and importantly allows us to connect with our business partners and allow them to embrace the culture, and to share our passion for the brands.

With the onset of online modules we have found the use of tablets to be a very worthwhile tool. People can take the modules with them and continue that education irrespective of where they are. We have recently also moved into a certification process which enables our partners on completion of our 'drive' training to be accredited with a Certificate III in Hospitality. This will be a really important qualification for our franchisees and their staff. We also have remedial training for our partners and their staff.

Has enough time elapsed to register any change since the new training processes?

One of the pleasing things for me is that I can really see the commitment to the brand coming through strongly. You can always tune skills, but it's very difficult to find commitment and passion, it has to be there from day one. One of the ways in which I gauge this is to monitor attendance at important events we arrange, for example, each year we have an annual conference, and the franchisee attendance has been above 90%. This indicates to me a willingness to participate in developing strategies and enhancing relationships, which is critical in ensuring each other's success.

On that notion of brand culture, how have you found using social media within the hospitality industry?

I think it's a magnificent tool to engage your customer, and it's taken up a pivotal role in the way in which we communicate. However, you must be very careful in execution. Social media is about communication and education, but it's not about selling, and I think sometimes brands make the mistake of using social media for selling. We control it all from head office with the help of our digital agency and with this specialised focus it can be such a powerful and rewarding tool for brand building.



Given your time in franchising, how have you seen it evolve, and what do you see coming next?

Good, responsible franchising is fantastic, bad franchising is poison. Good franchising systems provide a wonderful model for small business. This is provided both parties share the same passion, communicate frequently and with integrity, and share each other's goals, most which will be very similar. Working together as respectful business partners, and not as different entities is the key.

I think where sometimes franchisors and franchisees get into trouble is when they start to differentiate their goals. It's really important that a franchisor is united with their franchise partners. Having a successful franchise model is only part of the solution in trying to build a successful business in Australia.

There are fundamental problems within the Australian retail market that need to be addressed. These are to do with industrial relations, work practices and a need for greater government focus on landlords and ensuring they act 'in good faith' when dealing with small businesses.

At the moment the balance is very much in their favour, when dealing with renewals, a level playing field doesn't exist.

A highly respected franchisor and strong brand can certainly provide a greater level of comfort to franchisees in this area. Franchising is great model provided we work closely together to deliver the same mutual goals. I think it'll be around for a long long time.

Where is Foodco headed in the next five to 10 years?

I believe The Australian retail market has some fundamental challenges ahead of it. Retailers are working with different lobby groups and trying to change the legislation so that small businesses will have more fertile ground for growth. You can't wait for that to occur, what you've got to do is start to look at other ways of growing your business, and fortunately for us, we have brands which are in demand internationally.

We have more demand today than we've ever had before, and we'll continue to build on that demand. What we want to do is grow the business in countries that share the same passion for coffee, and for the café experience. We're not targeting every country in the world, only those which will provide a sensible opportunity for both us and our business partners.

Would you say franchisee recruitment is not as tough for Foodco as for other brands?

Over 23 years in franchising nothing has really changed in this area. In 1990 franchisee recruitment was difficult and continues to be the toughest part of growth. However, good things are always in demand and seem to sell themselves. We have a strong pipeline of potential business partners looking for opportunities with our brands. I think that's because of our credibility, strength, passion and reputation. One of the first things a prospective franchisee does is go around and talk to other franchisees, and if our partners speak positively about us, then I'm confident there won't be a shortage of franchisees. 



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POWERFUL WAYS TO KEEP THE KRYPTONITE OUT OF YOUR FRANCHISE MARKETING

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Keeping m-commerce in hand



Emma Hunt,
Head of Small Business, PayPal

Today's fast paced technology has put the consumer in the driver's seat like never before. It has also opened a world of opportunities to businesses and has thrown speed bumps and road blocks aside, allowing people to do things faster, more efficiently and from anywhere.

Consumers are already changing their behaviours, and are demanding immediacy and transparency from the businesses they interact with.

The rise of the Smartphone and Tablet

Smartphones and tablets have become an integral part of consumer's daily lives. As a result, consumers' buying habits have changed dramatically. The ways they shop are no longer constrained by time or place – they do it wherever and whenever they want, at all times during the day. It's no longer about location; it's about engagement and adaptation! There are over 5 billion mobile phones in the world and in 2014 more people are expected to connect to the web via a phone than a computer. (Wireless Intelligence, 09/2011)

Shopping and paying on mobiles is booming. 58% of consumers use their phones while shopping, whether it's checking out products, looking for reviews or recommendations, or completing a purchase. (Garner, 05/2011) Globally, consumers are expected to spend \$119 billion by 2015 through their mobile phones, accounting for about 8% of all e-commerce activity, according to ABI Research (09/2010). Retail is not the only industry changing – the payments space is also changing and it is changing quickly. Arguably we haven't seen a significant change in payments since the introduction of credit cards in the 50s. Today, payments are blending in to experiences and consumers expect a seamless mobile experience.

Adapting your business for the mobile shopper

To ensure your business doesn't miss out, it's important to provide a mobile experience that consumers expect.

Here are some reasons why it's important to adapt your website and shopping experience to suit mobile customers:

- Your current site may not fit on the screen properly
- Large images may take a long time to download
- If your site is built in Flash it won't work on an iPhone/iPad
- Shoppers are more impatient when shopping on their mobiles, and want content at their fingertips
- They want to be able to complete a payment in just a few clicks

There are some simple, more secure and more cost effective ways to enable your customer to make mobile payments on your site.

Focusing on PayPal, we are working across Australia and around the world to provide retailers with a solution to accept payments however they do business. With PayPal Express Checkout your customers will have a streamlined experience as your customers details are automatically populated, making purchases quicker and more hassle free – a better experience for mobile transactions. We provide services for businesses of all sizes – we provide sole proprietors with the opportunity to collect payments on their mobile phone with PayPal Here.

200 years ago Charles Darwin said "It is not the strongest of the species that survives, nor the most intelligent, but the one most responsive to change." - We agree!

The PayPal service is provided by PayPal Australia Pty Limited (ABN 93 111 195 389) which holds an Australian Financial Services Licence, number 304962. Any advice provided is general only and does not take into consideration your objectives, financial situation or needs. You should read and consider the PayPal Australia Pty Ltd Combined Financial Services Guide and Product Disclosure Statement before deciding whether to acquire or use the PayPal product. [fr](#)



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WHIRLWIND



New national privacy laws lift the bar



Geoff Bloom,
Partner, HWL Ebsworth

Franchise businesses should consider how they deal with all personal information that comes into their possession.

The largest reforms to the *Privacy Act 1998 (Cth)* (*Privacy Act*) for over a decade will take effect on 12 March 2014. Based on a major 2008 report by the Australian Law Reform Commission, the reforms were passed on 27 November 2012 but have a long lead in to give businesses the time they will need to get ready to comply.

The *Privacy Act* protects personal information, that is, information about identifiable individuals. Franchise businesses often collect, use and disclose personal information about customers, clients and individual business associates.

That might include their name, contact details, information about the products and services they have received, financial details, loyalty program information and marketing details.

Often this is stored on franchise-wide IT systems, and is accessible by a broad range of people.



Key reforms

- Australian Privacy Principles (APPs) will replace National Privacy Principles (NPPs) (applying to the private sector) and Information Privacy Principles (IPPs) (applying to the Commonwealth and ACT public sector).
- Introduction of “privacy by design”, a new positive obligation to have privacy compliance practices, procedures and systems in place.
- Mandatory changes to privacy policies and privacy notices.
- Added restrictions and conditions on direct marketing.
- New restrictions on disclosing and storing personal information overseas (eg, cloud storage, call centres, foreign contractors), with Australian disclosers often deemed liable for the breaches of overseas recipients of personal information.
- Greater powers for the Privacy Commissioner to encourage and enforce compliance.
- For the first time, a civil penalty for serious or repeated breaches of the Privacy Act, of a maximum of \$1.7 million against corporations and \$340,000 against other entities, including individuals.

A key reform is to the “Ten Commandments” of privacy law, the National Privacy Principles. These have been reformulated as the Australian Privacy Principles. Mostly, they are the same but there are some important differences.

We now have a duty of “privacy by design”, a positive obligation to have privacy compliance practices, procedures and systems in place to ensure that a business complies with the APPs and any applicable privacy code.

So, if a franchise business’ operation manual does not have procedures and forms that cover privacy - or if coverage is scant or lax - that will be a breach of the *Privacy Act* in itself. If staff handling personal information do not understand how to protect that information in line with privacy law, that too will be a breach.

Privacy policies, the documents usually linked to a business’ website home page, must now cover a mandatory list of subjects. Most privacy policies will need to be updated. Similarly, privacy notices that usually appear in application forms, online forms or other documents for collecting customer information, will need updating.

“ Privacy policies, the documents usually linked to a business’ website home page, must now cover a mandatory list of subjects. Most privacy policies will need to be updated. ”

Most direct marketing will now have to offer easy opt outs from future marketing.

Businesses that direct market for other businesses will be subject to new restrictions. If you get marketing lists from other organisations, customers can now ask you where you got your lists, so you will need systems to keep track of source organisations.

Many franchise businesses contract out functions overseas that use customer information like cloud storage, call centres, back office administration and billing, and direct marketing. Those businesses will now be liable for privacy breaches of the overseas recipients. It may be worth putting new obligations and indemnities into contracts with overseas service providers – and other overseas recipients of information – to protect franchise businesses sending personal information offshore.

Up to now, the Privacy Commissioner has been seen as a toothless tiger amongst regulators, because they cannot impose penalties on breaches (except for credit reporting breaches). Now, serious or repeated privacy breaches can attract civil penalties of a maximum of \$1.7 million against corporations and \$340,000 against individuals.

*Geoff Bloom, Partner
Specialising in privacy law
HWL Ebsworth Lawyers
T: (02) 9334 8692
E: gbloom@hwle.com.au*

HWL Ebsworth is assisting many franchise businesses get ready for the reforms. Our Privacy Compliance Package, based on a review of best practice in Australia and comparable countries, is customised to the needs of each franchise business. It is a practical and cost effective way for franchise businesses to meet their privacy compliance obligations. Please contact us if you would like to discuss whether we can assist your business. [fr](#)

What franchise businesses should do to prepare for the changes

- Consider loyalty programs, operations manuals, online notices and anything else that contains another party’s personal information, in particular, consider how that personal information is used and who may obtain access to it.
- Assess privacy risks – legal and operational – and decide whether your operations manual and other systems satisfy the “privacy by design” requirement to have policies, procedures and systems in place to ensure compliance with APPs.
- Amend privacy policies and notices.
- Review direct marketing practices to ensure they comply with the new requirements.
- Assess and amend cross-border disclosure contracts and practices to ensure they comply with new requirements and protect the Australian discloser.
- Consider creating a privacy law reform project, with adequate resources, time and budget to be ready for the commencement of the reforms on 12 March 2014.



The future of business in the cloud...

Leverage your business using the CLOUD....



Andrew Oldham,
Sales Director, Shoebooks

Franchise Review caught up with one of the FCA's newest partners, cloud accounting platform, Shoebooks, to learn about their unique offering to members. Franchise owners and franchise networks can start creating a real point of difference over their competitors, by leveraging from the endless possibilities that cloud technologies offer!

Where do you see cloud technology going?

This might sound a little cliché, but we are seeing firsthand the cloud is providing business owners with endless possibilities in terms of how they manage their business and where they manage the business from, integration and automation of systems, new geographical regions being reached and a reduction in overall costs.



“the possibilities are endless as long as you have a vision of what and where you want to take your business.”

When we first meet business owners thinking about moving their accounting and bookkeeping functions into the cloud, we spend time with them understanding what their needs are right now but also where they are taking the business in the future. The main reason we want to understand their future is that we want to be able to provide a solution that enables the business to grow without having to make a lot of changes or increase their IT costs down the track.

We help business owners remove inefficient or latency systems (the world of spreadsheets), automate the way information is collected and distribute across their business or franchise network and the most important reason is so that the decision makers of the business no longer lay awake at night thinking, “how’s my business performing?” They can now access this information from anywhere in the world.

What are the main concerns or barriers business owners have?

The most common concerns business owners have when thinking about moving to the cloud seem to be the same for most;

- Security of their data. Where is it hosted, who has access to it?
- What happens if the Internet goes down?
- What happens if my provider disappears?
- Is it hard to migrate historical data?

We spend a lot of time and resources around the RISK side of our business which includes utilising state of the art secure data centres in Australia (not overseas), redundancy around backup internet access to the data centres and importantly educating clients that their software and data is more secure in the CLOUD (with the right supplier) than it is in their own office or home where anyone can access, delete or in severe cases remove hardware, which could be catastrophic for the business.



What are the possibilities for businesses and franchise networks?

As I mention before, the possibilities are endless as long as you have a vision of what and where you want to take your business.

Here are just a few that we have experienced with some of our franchise businesses.

- Opening new locations using one system.
- Integrating systems, to bring automation and systemisation.
- Transparency with the numbers and automation of franchise fees.
- Immediate reduction in IT and administrative costs.
- Business owners can manage their business from anywhere in the world.
- Giving your bookkeeper or account access to real time data.
- Tailored Bench marketing reporting across franchise networks providing better education about areas to improve on.
- Automation of franchise fees and transparency around the numbers.
- Systemised account keeping and back office procedures including integration with systems like POS, CRM’s and others.

What do businesses need to be mindful of when thinking of moving to the cloud?

Do your due diligence on all aspects of a cloud supplier!

Find out where the data is hosted and how you can access your data if something goes wrong.

What support will you receive? How flexible is the software? Will you need add-ons down the track as you grow? Will you get support with implementation and integration of systems?

What’s some of the feedback from clients that have moved to the cloud using Shoebooks?

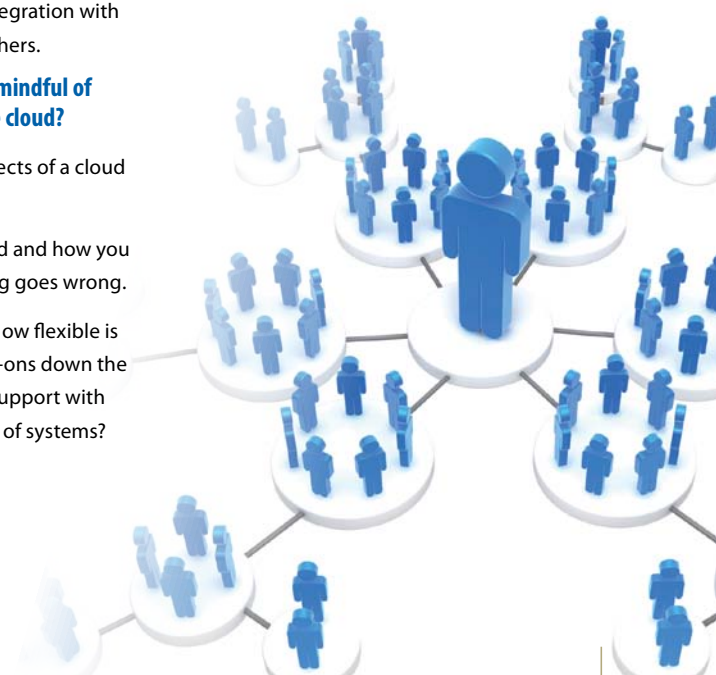
We have been very lucky in that we get to work with a lot of our clients including franchise systems right from the beginning, through tailoring their online accounting platform to their business needs, implementation and ongoing support when new franchises come on board.

Feedback comes in different forms but the key ones we are proud of are comments like, being on the ball, great service, there is no direct comparison in terms of features & ROI and clients seem to feel safe knowing that their data is securely hosted in Australia.

Lastly, if a franchise was looking at moving their Accounting software to the cloud, what’s the process involved?

Firstly, anyone can go to our website and access a trial of the software and literally be up and running within minutes. If migration of data is a requirement, we have import tools available inside the software, clients can use themselves or we can assist. For more advanced requirements like tailored benchmark reports for their network, integration of systems and systemising the accounting software across their network, we sit down with each to build a tailored plan.

Shoebooks provides the simplest and most comprehensive online accounting solution to small to medium sized business including tailored benchmarking reports for Franchise networks, securely hosted in Australia. Shoebooks is a proud Partner of the Franchise Council of Australia. [fr](#)





Marketing

Tell your business story **ONLINE**..

Marketing your business online isn't all about selling your products and services; it's also about creating a personality for your business and helping your customers to get to know you.



Rafael Fernandes, Sales Manager,
FranchiseBusiness.com.au



“When people see your testimonials it provides third-party credibility that your business is trustworthy, reliable and can achieve great results.”

One way to do this is by telling your business' story online. There are hundreds of stories within your business that you can use to build your brand and market yourself online.

These stories may include how you started the business, how you overcame a major challenge for the business, how you solved a customer's issue, how your product or service was beneficial to a customer and more.

By telling your business' story online you can build your brand awareness, humanise the business and help customers connect with your brand, which can lead to increased customer loyalty.

Here are some ways you can tell your business' stories online...

MAKE A VIDEO

Videos are an engaging and interesting way to communicate information about your business to your customers.

You could create a video to tell the story of an average day at your office to give customers a better insight into how your business operates and the faces behind the brand.

You could also make a video about product demonstrations, tours of the office, employee interviews, customer interviews and more. Videos allow customers to gain a firsthand look at the business, which can help them relate to the business and connect with the brand.

You can use videos on your website, online business directory listing, social media sites, eNewsletter or even create your own YouTube channel.

Not only will videos tell your business story but they can help to improve your search engine optimisation and encourage people to stay longer on your website.

WRITE AN ARTICLE

A great way to tell your business' story is by writing it down as an article. You can then use this article in the majority of your marketing material or even in presentations or speaking opportunities.

Another great place to include the article is on your online business directory listing. When customers are comparing your business to others in your industry, this article will provide them with more information to base their decision on. Customers may then be more likely to choose your business because you have provided them with a valuable insight into how the business operates.

USE YOUR WEBSITE 'ABOUT' SECTION

When potential customers are looking for information about your business one of the first places they will visit is your website's 'about' section.

You can make the most of this section by helping potential customers to understand how the business operates and its values and ethics. Whichever story you use, the goal is to enable people to connect with the business on an emotional level and help them relate to the brand. This allows people to build a relationship with the brand, which can lead to increased customer loyalty or sales inquiries.

GET CLIENT TESTIMONIALS AND CASE STUDIES

Testimonials and case studies are an effective way to tell your business' story.

Testimonials are usually written by happy customers or clients documenting how your business solved their problem or the great services or products you have.

When people see your testimonials it provides third-party credibility that your business is trustworthy, reliable and can achieve great results.

Case studies can be written by your business to describe how you solved a customer or client's problem. Case studies are a great way to help potential or existing customers understand how your business operates and to increase their trust in the brand.

You can include testimonials and case studies on your website, online business directory listing, social media, eNewsletter and other marketing materials.

GET YOUR CUSTOMERS INVOLVED IN CREATING YOUR STORY

Encourage your customers to become involved in creating a new story for the business by giving them a reason to participate. For example maybe you want to increase the number of fans on your Facebook page.

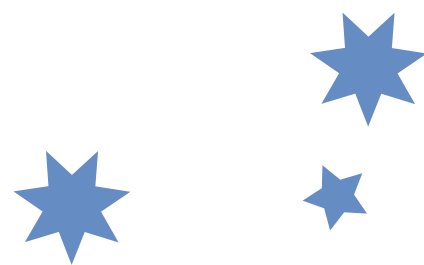
You could start by setting a goal for the number of fans you want to reach and asking your customers to help you achieve it. Often customers will be happy to help you achieve a business goal; however you may need to offer them an incentive as well. Once you achieve the goal make sure you thank your customers for their participation.

This campaign can then become part of your business' story, which you can use in your marketing material. It also helps your customers to feel more involved and valued by the business, which can lead to increased customer satisfaction and loyalty.

Stories are an effective marketing tool because they can help potential and existing customers to connect with the business and engage with the brand. Start finding the stories within your business today and use them to build your brand.

About Catch –

Catch.com.au publishes multiple industry leading websites, including www.franchisebusiness.com.au - that provide industry professionals with a central online resource.



FCA Events and courses

So far this year's events have attracted enthusiastic participants and great feedback. The FCA strives to provide quality speakers on relevant issues relating to franchising.



Earlier this year saw the introduction of the FCA Tech Roadshow to the calendar. Beginning in Melbourne and travelling to Sydney and Brisbane, the event showcased some fantastic brands and provided content on some of the more pressing tech questions for franchisors today, including implementing cloud technology across your franchise network, e&m commerce and social media via keynote speaker, Nick Bowditch from Facebook.

From now until the end of the year, the FCA state chapter committees have organised a series of events across the country to keep you and your franchisees busy. For more information on any of the events see the FCA website www.franchise.org.au

"We took a number of our team, both technologists and consumers of technology to the recent FCA Tech Roadshow in Melbourne and found that in addition to the content being interesting and relevant to a broad range of interest groups, the real benefit to our organisation was the conversations that the event started within our team. Learning is different to knowing and sometimes being exposed to ideas of the possible can lead to outcomes previously thought impossible without that first creative conversation. A great investment of time."

David Paterson, General Manager
Corporate Services, Back in Motion Health Group.



Victoria

Victoria

Roundtable- Franchising Code of Conduct compliance

Date: 09/07/2013

Venue: Norton Rose, Level 15, 485 Bourke Street, Melbourne, VIC 3000
Cost: Free of charge for members only

Roundtable- Identifying, planning and reinventing the franchisees training commitment

Date: 23/07/13

Venue: Hudson's Coffee Training Room, Level 3, 84-6 Elizabeth Street, Melbourne, 3000
Cost: Free of charge for members only

Franchising & Business Opportunities Expo

Date: 30/08/13

Venue: Melbourne Convention and Exhibition Centre
Cost: Register online for your free ticket prior to the show to save \$15, by entering the code: FPR

FCA Excellence in Franchising Awards 2013- VIC/TAS

Date: 30/08/13

Venue: Pullman Melbourne Albert Park (formally The Sebel), 65 Queens Road, Melbourne, VIC, 3004
Cost: Members: \$149, Non-Members: \$189, Members Table of 10: \$1,341.00

Boost franchisee performance and profitability

Date: 19/07/2013

Venue: Rialto Tower, 525 Collins Street, Melbourne, VIC, 3000
Cost: Single registration: \$445 including GST, Multiple registrations: \$395 including GST-discount price for more than one registration from the same organisation

How to organise a franchise conference

Date: 07/08/13

Venue: Rialto Tower, 525 Collins Street, Melbourne, VIC, 3000
Cost: Single Registration: \$215, Multiple Registration: \$185

Introduction to Franchising

Date: 08/08/2013

Venue: Rialto Tower, 525 Collins Street, Melbourne, VIC, 3000
Cost: Single Registration: \$395, Multiple Registrations: \$370

Effective Franchise Recruitment

Date: 13/09/13

Venue: Rialto Tower, 525 Collins Street, Melbourne, VIC, 3000
Cost: Single Registration: \$445, Multiple Registration from the same organisation: \$395

Site Selection and Territory Planning

Date: 04/10/13

Venue: Rialto Tower, 525 Collins Street, Melbourne, VIC, 3000
Cost: Single Registration: \$445, Multiple Registration from the same organisation: \$395

Introduction to Franchising

Date: 15/11/13

Venue: Rialto Tower, 525 Collins Street, Melbourne, VIC, 3000
Cost: Single Registration: \$395, Multiple Registrations: \$370

Continued over page

Want to engage with Chinese Investors?...

Australia-China BusinessWeek 2013

Wed 28 August, Sheraton on the Park, Sydney

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New South Wales

Roundtable- Growing existing franchisee's into multi-site owners

Date: 10/07/13

Venue: Pack & Send Offices, Unit 3C, Mfive Industry Park, 1 Moorebank Avenue, Moorebank, NSW, 2170
Cost: Free of charge for members only

Breakfast: To refresh or not to refresh?

Date: 23/07/2013

Venue: Moore Park Golf Club, Centennial Parklands/Cleveland St Moore Park NSW 2021
Cost: Members \$74.90 Non members \$94.90

Hotels World Annual Conference

Date: 24/07/2013

Venue: Hilton Sydney
Register: hotelsworld.com.au

Boost franchisee performance and profitability

Date: 17/07/2013

Venue: Australia Square Tower, 264 George Street, Sydney, NSW, 2000
Cost: Single registration: \$445 including GST, Multiple registrations: \$395 including GST-discount price for more than one registration from the same organisation

Introduction to Franchising

Date: 09/08/13

Venue: Australia Square Tower, 264 George Street, Sydney, NSW, 2000
Cost: Single Registration: \$395, Multiple Registrations: \$370

Roundtable: Building a business that encourages innovation

Date: 06/09/13

Venue: NSW

How to organise a franchise conference

Date: 11/09/13

Venue: Australia Square Tower, 264 George Street, Sydney, NSW, 2000
Cost: Single Registration: \$215, Multiple Registrations: \$185

Effective Franchise Recruitment

Date: 12/09/13

Venue: Australia Square Tower, 264 George Street, Sydney, NSW, 2000
Cost: Single Registration: \$445, Multiple Registration from the same organisation: \$395

Site Selection & Territory Planning

Date: 01/10/13

Venue: Australia Square Tower, 264 George Street, Sydney, NSW, 2000
Cost: Single Registration: \$445, Multiple Registration from the same organisation: \$395

Introduction to Franchising

Date: 14/11/13

Venue: Australia Square Tower, 264 George Street, Sydney, NSW, 2000
Cost: Single Registration: \$395, Multiple Registrations: \$370

Queensland

Roundtable- Before the crisis – handling complaints before they spiral out of control

Date: 18/07/13

Venue: Queensland
Cost: Free of charge for members only

NAB FCA Excellence in Franchising Awards 2013

Date: 19/07/2013

Venue: Royal on the Park
Cost: Members only: \$149, Non-Members: \$189, Members Table of 10: \$1,341

Franchising & Business Opportunities Expo

Date: 20/07/2013

Venue: Brisbane Convention Centre
Cost: Register online for your free ticket prior to the show to save \$15, by entering the code: FPR

Roundtable- Social Media Understanding and mitigating the legal risks

Date: 15/08/13

Venue: Redchip Lawyers, Level 1 'The Portal' Cnr Ann & Longland Streets, Fortitude Valley, QLD, 4006
Cost: Free of charge for members only

Roundtable- Understanding Prospective Franchisees

Date: 29/08/13

Venue: Mills Oakley Lawyers, Level 14, 145 Ann Street, Brisbane, QLD, 4000
Cost: Free of charge for members only

Roundtable- Franchise Growth through multi-site ownership

Date: 17/10/13

Venue: 10 Camford Street, Milton, QLD, 4064
Cost: Free of charge for members only

National Franchise Convention 2013

Date: 20/10/13

Venue: Jupiters Hotel and Casino, Gold Coast, QLD
Register here <https://wired.ivvy.com/event/NFC13> See page 2 for more information.

Roundtable- Protecting your Intellectual Property

Date: 14/11/13

Venue: Level 14, Central Plaza One, 345 Queen Street, Brisbane, QLD, 4000
Cost: Free of charge for members only

Western Australia

NAB FCA Excellence in Franchising Awards 2013

Date: 09/08/13

Venue: Botanical Room, Crown Perth, Great Eastern Highway, Burswood, WA, 6100
Cost: Members: \$149, Non-Members: \$189, Members Table of 10: \$1,341

Workshop: Handling Franchise Resales

Date: 09/07/13

Venue: Western Australia
Cost: Free of charge for members only

Introduction to Franchising

Date: 21/08/13

Venue: CBD
Cost: Single Registration: \$395, Multiple Registrations: \$370

Effective Franchise Recruitment

Date: 22/08/13

Venue: CBD
Cost: Single Registration: \$445, Multiple Registration from the same organisation: \$395


Improving franchise advisory councils

Date: 21/08/13

Venue: CBD
Cost: Single Registration: \$215, Multiple Registrations: \$185

Managing Franchise Resales

Date: 23/08/13

Venue: CBD
Cost: Single Registration: \$215, Multiple Registrations: \$185 

For more information on any of the events, see the events calendar on the FCA website www.franchise.org.au

The list of education courses is available via the Franchise Academy. There are a number of courses in development. Ensure you check the Franchise Academy Calendar for up to date listings and look out for the monthly Franchise Academy Update in your inbox.



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