

**> FRANCHISING ALERT****BUYING AN EXISTING FRANCHISED BUSINESS VERSUS ACQUIRING A NEW SITE**

If you are considering buying a franchised business, you generally have two options: (1) buy an existing franchised business/site; or (2) acquire a new franchise/site.

- A. Buying an existing Franchised Business:- If you are buying an existing franchised business:
- > the business is already operational – so less downtime getting the business up to speed and building a customer base;
  - > there may be existing staff in place that are familiar with the processes of the business – less time will then be needed for training staff;
  - > a record of the trading history of the business can be obtained allowing an easier process for verification of the business financials and assessing business viability;
  - > if the business trades from a physical location, you can visually inspect the existing condition/style and design of the centre, the building/premises and the fitout;
  - > you can visually check the condition of the existing plant and equipment;
  - > there will already be an existing customer base in place;
  - > if it is a retail type franchised business which heavily relies for its custom on foot traffic (for example, if you were looking at buying a franchised clothing store in a retail shopping centre) you can readily assess the amount of customers (i) entering the shopping centre (ii) passing by and in the immediate vicinity of the business premises (iii) that actually enter the business.
- B. Acquiring a New Site: - If you are acquiring a new franchised site:
- > the acquisition costs are often lower because you are not buying the “goodwill” value that is usually attributed to an existing franchised business;
  - > the new business will be unaffected by the habits, preferences and/or shortcomings of a previous business owner;
  - > the plant & equipment and fitout will be new and up to date – this will minimise maintenance costs which maybe associated with the breakdown of older equipment. In addition, as the fitout will be new there will be a longer period of time before it needs to be updated;
  - > you have the risk of not having any track record to draw from as you would with an existing franchised business;
  - > with a new site you will be relying to some extent on the potential sales projections provided by the franchisor, which may or may not be accurate.

At McCarthy Durie Lawyers we have a team of lawyers with extensive experience and knowledge able to assist you with your franchising requirements, whether that be in relation to: (i) the acquisition or sale of a franchised business (ii) reviewing and advising you about franchise contract documentation (iii) regulatory compliance (iv) preparing franchise documentation (v) assistance with disputes including dispute resolution and litigation (vi) establishing franchise systems for franchisors; or (vi) general franchise assistance and advice.

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