

 **FRANCHISING ALERT****WHAT IS THE FRANCHISING CODE OF CONDUCT?**

With some limited exceptions, participants in the franchising sector within Australia are required to comply with the Franchising Code of Conduct (Code).

This Code is set out in the Trade Practices (Industry Codes —Franchising) Regulations 1998 and compliance with the Code is enforceable under the Competition and Consumer Act 2010.

The Code is administered by the Australian Competition and Consumer Commission (ACCC).

The Code applies not only to Australian franchising participants but also applies to overseas franchisors that have franchisees in Australia.

The purpose of the Code is to regulate the conduct of participants in the franchising sector in respect of their dealings with other participants in the sector. This is generally achieved through:

-  requiring franchisors to disclose specific information to franchisees;
-  prescribing certain details which must be set out in the Franchise Agreement;
-  stipulating that franchisors follow certain procedures in their dealings with franchisees, for example, in relation to dispute resolution.

The Code was first introduced in Australia in July 1998. Since then the Code has been amended three times in 2001, 2008 and 2010.

A new review process in relation to the Code (as at July 2013) is underway. Some of the recommendations regarding changes to the Code include:

-  provision of information about the key risks and matters franchisees need to consider;
-  entitling a franchisee to terminate a Franchise Agreement in the event a franchisor enters into administration;
-  the Code being amended to include an express obligation to act in good faith.

At McCarthy Durie Lawyers we have a team of lawyers with extensive experience and knowledge able to assist you with advice about Code compliance.

If you are considering acquiring an interest in a franchised business or are already an existing franchisee and would like to know how the Code impacts upon you, then we would be happy to assist you.

Any enquiries about the Code or franchising generally can be directed to Raymond Duffy, Associate on 07 3233 9909 or email: raymond@mdl.com.au