

 **FRANCHISOR NEWS****DISCLOSURE DOCUMENTS**

The purpose of disclosure is to give to a prospective Franchisee proposing to enter into a Franchise Agreement (or an existing Franchisee proposing to renew their Franchise Agreement), information to assist the Franchisee to make a reasonably informed decision about the franchise system and the franchised business.

The Franchising Code of Conduct ("the Code") prescribes that a Franchisor must give a current Disclosure Document to:

- > a prospective Franchisee at least 14 days before the prospective franchisee enter into the Franchise Agreement or pays a non-refundable payment;
- > a Franchisee renewing their franchise at least 14 days before the renewal is effective.

The Disclosure Document must prepared and contain the information prescribed by the Code.

The Franchisor must also update its Disclosure Document annually and provide this updated Disclosure Document to the Franchisee within 4 months after the end of each financial year that is by 31 October 20xx.

A Franchisee can also request a copy of the current Disclosure Document, although only one request is permitted in any 12 month period.

Clause 18 of the Code also provides that where there are "materially relevant facts" which came into existence after a previous disclosure period, then the Franchisor must inform the Franchisee in writing, within a reasonable time not exceeding 14 days after the Franchisor becomes aware of the fact or matter. The facts or matters detailed in clause 18 of the Code include, among others:

- > a change in the majority ownership or control of the Franchisor;
- > certain legal proceedings or judgements against the Franchisor or a Franchisor director;
- > the Franchisor becomes an externally administered body corporate;
- > a change in the intellectual property or ownership or control of the intellectual property which is material to the franchise system.

Master Franchise

Additional disclosure obligations arise where there is a master franchise relationship. In such cases, both the Head Franchisor and the Master Franchisee/Sub-Franchisor must provide the prescribed disclosure information, either by providing a joint Disclosure Document that addresses their respective obligations or by each issuing a separate Disclosure Document.

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