

# Update 26 March 2008: Franchising Code Changes



**Fleming Muntz**  
Solicitors



## Summary

Effective from 1 March 2008, changes to the Franchising Code of Conduct increase disclosure obligations for franchisors and offer more information to intending franchisees.

## What's changed?

The principal changes include:

- The franchise agreement provided as part of the initial disclosure bundle can no longer be a *pro forma*; it must be a site-specific, final document in the form that the franchisee would be asked to sign.
- All documents that the franchisee must sign are to be provided at the same time. Commonly this might include a guarantee, occupation licence or confidentiality agreement.
- Marketing funds require an audit unless 75% of franchisees consent each year.
- The time limit for the franchisor to notify changes to some disclosure material has been shortened to 14, instead of 60, days.
- There can be no waiver of representations in the franchise agreement.

## What are the benefits?

More information about the franchise and franchisor will be available to potential franchisees.

Franchisees may more readily be able to hold a franchisor to account for representations made during recruitment and will see greater transparency in some operational aspects.

## What are the problems?

For franchisors, more effort will need to be directed to compliance, both during the recruitment process and regularly as changes occur in the franchise system.

Representations in any form will need to be carefully controlled and recorded.

## How can Fleming Muntz help?

All franchise documentation and processes will need to be reviewed as a result of these changes.

Fleming Muntz lawyers have considerable experience advising franchisors on compliance and documentation issues, guiding new franchisees through their recruitment and start-up, and negotiating the resolution of franchise disputes.

## Important fine print

**This update is for general information only. It is not a complete guide to the area of law. Competent advice should be obtained before taking any action.**

We resent unwanted email as much as anyone – if you would prefer not to receive any further updates, please telephone us on (02) 6021 2222 or email to [fmlaw@flemingmuntz.com.au](mailto:fmlaw@flemingmuntz.com.au).

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