

### **WHAT IS A FRANCHISE AGREEMENT WITHIN QUEENSLAND AND AUSTRALIA?**

A Franchise is a business arrangement which allows another person to operate under the name of the established brand. Probably the most famous example of a Franchise is McDonald's.

The owner of the established brand (the Franchisor) will grant to a person who wants to set up business (the Franchisee) a Franchise for them to exclusively operate in a defined area.

### **ADVANTAGES OF FRANCHISES**

- An established product name
- Sharing advertising and marketing expenses with other Franchisees
- Existing market knowledge and research about the product
- Continuing guidance from experienced operators
- Combined or bulk purchasing power

### **DISADVANTAGES OF FRANCHISES**

- Reliance on the expertise of the Franchisor
- Complicated franchise agreements
- Ongoing franchise fees

### **FRANCHISING CODE OF CONDUCT**

This code applies to all Franchises made after 1<sup>st</sup> October 1998. The code places certain obligations on the Franchisor to protect the interests of the Franchisee.

### **DISCLOSURE STATEMENT**

Before entering into a Franchise agreement the Franchisor must provide a disclosure statement to the prospective Franchisee. This statement must provide all relevant information that the Franchisee may require to make a decision about the viability or otherwise of that Franchise. Some of the items covered by the disclosure statement include:

- Establishment costs
- Ongoing costs such as Marketing and Administration
- Details about litigation against the Franchisor
- Details of the exclusivity of the Franchisee's prospective territory
- A summary of the terms, conditions and obligations of the Franchisee and Franchisor
- Cooling off period – duration of the cooling off period, minimum of 7 days
- Dispute resolution procedures

### INTERESTED IN FRANCHISING?

Ferguson Cannon can assist a Franchisor or a Franchisee to ensure that the many requirements of the Franchising Code are complied with. It is imperative that both parties obtain expert legal advice. Ferguson Cannon have extensive experience in representing both the Franchisor and Franchisee. We can prepare or assist in preparing and updating the disclosure information together with providing advice on existing franchise agreements.