



› Driving the economic development of Queensland ‹

Buying a franchise

What is franchising?

Franchising is one of Australia's fastest growing business sectors. A franchise is an agreement under which a franchisor licences a franchisee to operate a developed method of doing business that is identifiable as being associated with the franchisor. The franchisor provides ongoing guidance, systems and assistance in return for periodic payment of fees and/or purchases.

A franchise generally takes the form of:

- A **business format franchise** in which the whole business concept is licensed, including the name, appearance and method of carrying on the business.
- A **product franchise** in which the product is manufactured and/or supplied by the franchisee as occurs in the retail, fuel and motor vehicle industries

Benefits

A franchising relationship provides benefits to both the franchisor and the franchisee. Some of the benefits for franchisees include:

1. Franchising offers you some of the independence of small business ownership supported by the benefits of a big business network.
2. Buying into an established reputation and image, proven management systems, large scale advertising programs and group purchasing can reduce the level of risk and offer a higher likelihood of success.
3. When you buy into a quality franchise business, you are really buying the franchisor's proven management and operating experience and profile in the marketplace. This can be a big headstart in increasingly competitive and specialised markets.
4. Small business success comes down to planning, management skills, marketing know-how and product knowledge. Franchising is a way of doing business that provides you with open and ready access to these four key factors.

Important issues to consider

Franchising is seen by many as a simple way to go into business for the first time. But franchising is no guarantee of success and the same principles of good management - such as informed decision-making, hard work, having enough money and serving your customers - still apply.

Remember, a franchise agreement usually imposes certain legal obligations on both the franchisor and you as the franchisee. If you are thinking of buying a franchised business, you should be fully aware of the expectations and conditions attached to the franchise arrangement before proceeding.



› Driving the economic development of Queensland ‹

The franchisor

- How long has the franchise business been established and what is its reputation in the business community?
- Who owns the franchising organisation and what is their record? Are they members of the Franchise Council of Australia?
- Are they aware of and fully comply with the mandatory Franchising Code of Conduct?
- How robust and successful is the franchise system?
- What active support does the franchisor provide in terms of training, purchasing, choosing a location, marketing and advertising?

The product/service

- Do the products/services cater for ongoing customer needs, are they just a novelty or do they cater for seasonal demands?
- Are the products/services protected by patents, registered designs, trademarks or copyright?
- What is the existing and potential competition?
- What are the projected sales and profits and how are they determined?

The franchise agreement

- Has the franchisor provided an appropriate disclosure document in accordance with the mandatory Franchising Code of Conduct?
- What is the term of the franchise?
- Is there an option to renew? If so, are there any restrictions? What additional fees are payable?
- Does the franchise refer to a territory? Can others operate in your territory or 'poach' your customers?
- Is there a requirement to sell a minimum amount of products/services to keep operating the franchise?
- Can you sell the franchise to someone else? If so, are there any restrictions?
- Can you continue in the same business after selling the franchise or following its termination?
- Can the franchisor terminate the franchise? If so, under what conditions?
- Is a royalty or commission payable to the franchisor?
- How much must be paid up front, what do you get for this, and what are the conditions?
- How much is the on-going franchise fee? Are there other fees for advertising or training?
- What impact does GST have on the franchise fees associated with the franchise?

The business premises

Does the franchising agreement include the leasing of business premises? If so:

- Do you or does the franchisor hold the lease over the premises?
- Can the lease be terminated while you continue to hold the rights to the franchise?
- What are your rights and obligations under the lease agreement?
- Who owns the fit-out and other inclusions in the leased premises?



› Driving the economic development of Queensland ‹

Financial considerations

- Apart from the cost of the franchise itself, what will be the cost of buildings, plant and equipment, fixtures, fittings and stock?
- Is the product and equipment being offered at a fair market value?
- Have you considered the best way to structure your franchise business for taxation and legal purposes - a company, partnership, sole trader or trust?
- Do your estimates of wage costs take into account holiday entitlements, overtime payments, the need to cover absent staff and superannuation obligations?
- Have all overhead costs been included in your financial calculations?
- Will the business provide you with a fair return on your capital outlay, your personal effort and risk?

Franchising Code of Conduct

The Franchising Code of Conduct is a mandatory code applied to all business arrangements that fall under the Code's definition of a franchise. The Code of Conduct requires that a disclosure document is provided by a franchisor to prospective franchisees to assist them to make reasonable and informed decisions about purchasing a franchise. The Code also provides certain protection to franchisees and includes dispute resolution procedures.

The Australian Competition and Consumer Commission (ACCC) is responsible for enforcing the Code. Copies of the Code and a very useful publication called The Franchisee's Guide can be obtained from the ACCC by telephone 07 3835 4666 or www.accc.gov.au.

Further information

The following fact sheet provides further information on these issues:

- Business planning

Looking through information provided by the franchisor will assist you to determine if their franchise is a viable way to invest your money and time. Ask the franchisor for a list of their established franchisees so that you can ask them if they are satisfied with their franchisor - this is a good way to start evaluating whether you want to buy their franchise.

Business consultants can provide you with the latest industry information and can help you find out if the franchise business will be viable and if it will suit your situation. A consultant can also help you to develop a business plan to take account of individual markets and devise customised strategies to increase your chances of success. Your solicitor and/or accountant can also provide invaluable assistance and guidance if you are considering buying a franchise.

Industry bodies such as the Franchise Council of Australia telephone 1300 669 030 can provide you with further information and advice. These bodies can provide other valuable information about franchising and can refer you to professionals such as solicitors, accountants, banks and franchise consultants who have experience with franchising matters.

Your local State Development Centre can provide you with free access to the Internet to research this and other business topics, free and confidential information, referrals to specialist advice and other assistance. Telephone 13 26 50 to be connected to your nearest State Development and Innovation Centre.