Display or Pay! Franchisors must register by 14 November 2022

Date : November 2, 2022

Effective July 2021, a number of important changes were introduced to the Franchising Code of Conduct (the **Code**). These changes were introduced in response to the 'Fairness in Franchising' report released in March 2019 by the Parliamentary Joint Committee on Corporations and Financial Services following an inquiry into the operation and effectiveness of the Code. In essence, the changes were brought in to deal with the long scrutinised power imbalance between the franchisor and the franchisee and to establish a greater level of transparency in that relationship pertinent to the franchise business.

Franchise Disclosure Register

A key aspect of the changes to the Code is the introduction of a new Franchise Disclosure Register (**Register**), which is administered and hosted by the Department of the Treasury, Australian Government. The Treasury is bound by the Australian Privacy Principles in administering in the Register. The purpose of the Register is to allow prospective franchisees and current franchisees, including their professional advisers, access to certain material information free of charge in order for them to make informed decisions relating to the franchise business.

What are the Franchisors obligations under the Franchise Disclosure Register?

Each franchisor, as defined in the Code, must create and publish a profile containing key

disclosure information about the franchise on the Register by 14 November 2022. This is so that members of the public, including current and prospective franchisees, can access the information published by the franchisor from the next day, 15 November 2022. The information that is required to be published by the franchisor, as well as information that is optional, is set out below in this article.

In addition to the obligation of publishing the information on the Register, Franchisors have an ongoing obligation to keep the information up to date on the Register in accordance with the existing update requirements under the Code.

Publication of required information

Franchisors are required to disclose the following basic information on the Register:

- Franchisor's name, trading name and ABN
- Business email address and contact phone number
- Franchisor's address(es), including registered office and principle place of business in Australia
- Industry division and subdivision under which the franchise system operates
- Financial year on which the franchisor operates
- Any other information required by the Treasury

Publication of optional information

Franchisors can choose to publish the following documents on the Register:

- The Disclosure Document created and maintained by the franchisor under cause 8 of the Code
- The key facts sheet created and maintained by the franchisor under clause 9A of the Code
- The standard form of the franchise agreement used by the franchisor in the franchise system

Penalties for failing to publish

Franchisors that fail to publish the required information, or update the information, on the Register, may face a maximum civil penalty of 600 penalty units. This presently amounts to $133,200.

Along with the other changes to the Code, the Register is established to improve accessibility to material information of franchises for the general public in order for potential franchisee's to now have the opportunity to compare businesses and their documentation.

If you are a Franchisor or a Franchisee and you have any questions regarding the Franchise Code of Conduct or the Fairness in Franchising Report please contact our Commercial Law team at Matthews Folbigg Lawyers on 9635 7966 to discuss. Our commercial lawyers can

provide advice and ensure your franchise documents comply with the new Franchise Code of Conduct.