

## Buying a new franchise? Top tips

Franchising continues to boom - understandably, being the purchase of a ready-to-go business system, with backup support and an established product, name and logo. But franchises have a dark side too. Requiring a large investment of time and money over many years, it is not uncommon for a franchisee, only a year or two in, to be floundering because promises of support, customer referrals and revenue have been vastly overstated.

If you are thinking about buying a franchise, here are some tips:

- Speak to several existing franchisees (their contact details should be in the Disclosure Document which the franchisor must give you). Are their financial expectations being met? Are they getting proper training, back up support, and supply of product? Approach newly created franchise systems with a degree of scepticism, as being unproven they carry a greater risk than established systems.
- Ask to see the Franchise Manual (you may be asked to sign a confidentiality agreement first). You can tell a lot from this document - if it is few basic pages cobbled together, think twice. If on the other hand it is a comprehensive, helpful and thoughtfully prepared document you can feel more confident.
- How is the franchisor paid? A smaller upfront fee is preferable even if it means a larger monthly fee. Even better, if the ongoing fee is a percentage of your turnover (rather than a fixed sum per month) the franchisor will be more motivated to help you succeed - hopefully a win-win for both parties. See your accountant before you buy, and make sure you are not paying good money to "buy a job" with long hours and low pay and which you can't quit. You should be getting a genuine return from your investment after factoring in a reasonable wage for your time (and don't forget to allow for your super, annual leave, sick leave and WorkCover).
- If there is a fixed territory, is it accurately defined? Is it exclusive? If not, be prepared to compete with other franchisees in your area, and factor in the likely impact on your revenue.
- Will you want to sell your business down the track? If so, bear in mind that many franchisors charge a hefty transfer fee (I've seen as much as 50% of the initial franchise fee!) plus legal fees for new documentation.

With franchise agreements, the devil is indeed in the detail. Have your lawyer review your documentation and provide you with a comprehensive report, so you clearly understand what you are signing. Sometimes we can negotiate changes to the agreement, with significant long term benefit. We can help you set up an effective legal structure through which to own your franchise, as well as conducting due diligence to ensure you are getting what you pay for.

Obtaining legal advice should be seen as an essential insurance policy. Sadly, many of the clients who see us with franchise disputes are the ones who didn't seek advice in the first place (or ignored it).

Nevett Ford regularly acts for clients buying a new franchise. If you are thinking about buying or know someone who is, please feel free to call the author, Kent Mallinson, for assistance.

**Paul Stephens**  
**Director**  
**T: 03 5337 0262**

email: [pstephens@nevett.com.au](mailto:pstephens@nevett.com.au)

**Kent Mallinson**  
**Lawyer**  
**T: 03 537 0250**

email: [kmallinson@nevettford.com.au](mailto:kmallinson@nevettford.com.au)

# NEVETT FORD

## **Ballarat office**

40 Armstrong Street North  
Ballarat Victoria 3350  
T 03 5331 4444  
F 03 5333 2694  
email:  
[ballarat@nevettford.com.au](mailto:ballarat@nevettford.com.au)

## **Bacchus Marsh office**

183 Main Street  
Bacchus Marsh Victoria 3340  
T 03 5366 3888  
F 03 5367 4991  
email:  
[bacchusmarsh@nevettford.com.au](mailto:bacchusmarsh@nevettford.com.au)

***“Building quality relationships with clients”***

**[www.nevettford.com.au](http://www.nevettford.com.au)**

## **Disclaimer**

This document has been prepared for the purpose of providing information and is intended as a guide only and not legal advice.

If you have any queries in relation to this article please contact this office to seek legal advice. Accordingly, we accept no responsibility for the accuracy of the information provided nor any liability for any loss or damage suffered as a result of reliance upon this document.