

Important changes to the laws of franchise disclosure documents

On 1 March 2008 the revised *Franchising Code of Conduct* will come into operation. The revised Code includes significant changes, particularly as it relates to the content of disclosure documents. Some of the most significant changes are:

- copies of documents relating to the franchise agreement must be provided at least 14 days before the franchise agreement is signed in circumstances where such documents are available;
- franchisors are required to disclose in their disclosure documents from whom they receive rebates and financial benefits;
- details of the expenses of marketing and other cooperative funds must be provided by franchisors to franchisees;
- the last known name and contact details of each ex-franchisee must be disclosed to the franchisee, unless the ex-franchisee requests that it be withheld;
- the disclosure of materially relevant facts to franchisees will have to be provided within 14 days instead of the current 60 days;
- a current disclosure document must be provided when either the scope or term of a franchise agreement is proposed to be extended;
- franchisors can charge a prospective franchisee for reasonable expenses incurred if an agreement is terminated by the prospective franchisee within the “cooling off” period;
- materially relevant facts concerning franchisor directors will need to be disclosed to prospective and existing franchisees. The scope of this disclosure will extend to any contravention of the *Corporations Act* by the director;
- franchisors are not allowed to prohibit franchisees from communicating with other franchisees;
- general waivers regarding prior written or verbal representations will not be permitted in franchise agreements; and
- the details and history of the territory or site to be franchised will need to be provided together with the disclosure document.

For more information on this article or for assistance with updating your franchise documents so that they comply with the Code, please [contact](#) franchise lawyer Alanna Van der Veen, Emery Partners.