

SMART WAYS TO CHECK OUT A FRANCHISE

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Here's a dozen of the key things you need to investigate when considering taking up a franchise.

What is the key to choosing a good franchise and how do you research them? How do you go about selecting the right business that will give you the right sort of returns? What should you look for in a franchise agreement? To start with, there is no shortage of franchise opportunities available. There are literally hundreds to choose from. They range from accounting services to real estate agencies, from corner shops to fast-food restaurants, from tutoring services to lawn mowing and mobile dog-clipping services. The most comprehensive list for those with internet access is the Franchise Council of Australia's website (www.franchise.org.au). One thing to note about this list is that the names are not all member of the FCA. The body provides an advertising service for anyone wishing to promote a franchise system, and no one checks out any of the claims that are made. Sydney business lawyer Peter Townsend says it is important to do your own homework and make sure that you seek advice on anything you do not understand. He says that when franchising works it can be a terrific model for a small business. The important things is that everyone must understand their role and be fair dinkum about performing it. *So what are some of the important things you need to know and check?*

1 Know all about franchise disclosure. There is an official franchise code of conduct that sets down certain information that must be disclosed about any franchise. This must include a copy of the franchise agreement. There must be a gap of 14 days between

receiving and signing up. Then you have another seven days to change your mind after you have signed up.

2 More specifically the term of the franchise is important. Is it for a fixed term or an indefinite period? This is important when determining an exit strategy from your franchise (see the separate report on exiting.)

3 Be confident about the experience of the franchisor. Their experience should be quite apparent to a prospective franchisee. How long have they been in business? And it's not just about their business experience as a franchisor. A franchise in its infancy has a greater risk of failure because its systems have not been properly tested.

4 You must speak with several other franchisees to check their experiences. Business broker John Stephens says that with every 10 franchisees you will usually find a couple who could be seriously unhappy and on who is just disgruntled. At the other end, there can be similar number who thinks it is the best thing that has happened to them.

5 What is the agreement with regard to any territory rights? Can the franchisor compete against you?

6 Check the status of any intellectual property such as trademarks and logos to ensure they are properly registered. The franchise will not be as valuable if anyone can copy the systems.

7 Ensure the franchise operations manual is not used as a backdoor way of changing terms of the agreement. Some

manuals have been found to give franchisors the right to increase the royalty charge or other payments. The manual should stick to operational issues.

8 Be wary of any right that allows a franchisor to terminate the franchise agreement at will. Any termination right should only apply if there has been a material breach which should be set down in the agreement.

9 You must also be told if there are any legal proceeding involving the franchisor and any franchisees. This can include proceeding under industrial relations rules. Any personal convictions against a franchisor or director must be assessed.

10 Check out any compulsory buying arrangements regarding things you need for the business. While bulk buying can be one of the great strengths of a franchise, it should be fair. Strictly speaking the Australian Competition and Consumer Commission should approve any compulsory agreement. An alternative is to ensure a right to buy the same quality goods independently while allowing the franchisor to match cheaper prices.

11 Are there any potential conflicts of interest about which you should be aware? An interest by a franchisor in a third-party supplier of goods can represent such conflict.

12 What are the arrangements for promoting the business? The preferred scenario is a marketing fund to which the franchisor also contributes. This fund should be independently audited with financial records provided to franchisees.