Article Information

Author: Andrea Pane
Service: Corporate & Commercial Finance

Franchising – Recent Actions by the ACCC

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Recent action by the ACCC against Domino's and Ultra Tune signals a clear warning to franchisors that the ACCC is intent on enforcing compliance with the Franchising Code of Conduct ('Code'). In both cases, the ACCC has emphasised the importance of franchisors providing franchisees with accurate and timely information. **Andrea Pane, Partner** *and* **Jamin Li, Law Graduate** *discuss.*

Domino's has been fined $18,000 for failing to provide franchisees the required marketing fund statement and auditor's report within the timeframes specified under the Code.

In the case of Ultra Tune, the ACCC has issued proceedings in the Federal Court claiming that Ultra Tune has –

- failed to act in good faith in dealing with a prospective franchisee by not providing the prospective franchisee with the documents required under the Code before accepting a non-refundable payment;
- failed to provide marketing fund financial statements and audit reports for three financial years to its franchisees; and
- failed to update its disclosure document or provide it within the time limits prescribed by the Code.

The ACCC is seeking a refund of the prospective franchisee's payment, declarations, injunctions, pecuniary penalties, compliance and adverse publicity orders.

Given the actions taken by the ACCC, now is a good time to review your documents and internal processes to ensure that you comply with:

- your disclosure obligations under the Code, such as providing marketing fund financial statements, disclosing materially relevant facts and updating your disclosure document; and
- your obligations in dealing with franchisees, including acting in good faith.

Authors: Andrea Pane, Partner and Jamin Li, Law Graduate.