

Article Information

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Not holding leases for franchised stores? Think again!

Commercial Partner, Andrea Pane looks at how careful consideration of whether to hold leases for franchised stores can then have benefits for franchisors in the long term.

Franchisors that have made the decision not to hold leases for franchised stores may need to think again.

And not just because of the recent changes under the new Franchising Code of Conduct. One of the more significant changes is that which overrides restraints of trade. This will have a direct impact on franchisors financially moving forward.

Under the new Code, essentially a franchisor will need to buy the business from a franchisee when the relationship ends, or if not the franchisee can continue to run their business, regardless of any restriction which the franchisor may want to impose on the franchisee to do so.

This is to combat the common complaint by franchisees that they should be compensated, when the relationship with the franchisor comes to an end, for all their hard work in building up their business, and so, by default, the franchisor's brand.

To be fair the government has put in place conditions which a franchisee must adhere to if they want to be compensated or be able to continue to run their business.

We could talk about a number of different ways in which a franchisor can minimise the impact of these changes under the new Code, one of which is to hold the leases for franchised stores.

However, there is another reason why franchisors should favour holding leases. And this is to increase the value of the franchisor's business when they decide to sell.

The impact that holding the leases may have on not only on the number of people interested in buying the franchise chain, but also on whether or not the sale actually goes ahead, should not be underestimated.

As to the changes under the new Code that may lead to payment of compensation by franchisors to franchisees, the reality is that if a franchisor has a good franchisee they will most likely want to continue the relationship. And if for some reason the franchisor does not want this, if the franchisor has changed focus to a company owned model, then it is only fair that the franchisor buy the business from the franchisee, in which case the franchisee will most likely be restricted from running a competing business under the sale agreement.

To find out more, contact [Andrea Pane](#).