# LAWCOMM 758 Franchising Law



# (1)

Terry, A.; Giugni, D.; Terry, A. Business & the Law, 4th ed.; Thomson Learning: Southbank, Vic, 2005.

# (2)

Barkoff, R. M.; Selden, A. C.; American Bar Association. Forum Committee on Franchising. Fundamentals of Franchising, 2nd ed.; American Bar Association, Forum on Franchising: [Chicago], 2004.

# (3)

Barkoff, R. M.; Selden, A. C.; American Bar Association. Forum Committee on Franchising. Fundamentals of Franchising, 2nd ed.; American Bar Association, Forum on Franchising: [Chicago], 2004.

### (4)

Franchising Law and Practice - Forms and Precedents: [290.1] Franchise Agreement, [290.5] Master Franchise Agreement. Franchising Law & Practice, 1.

### (5)

Franchising Law and Practice - Forms and Precedents: [290.75] Guarantee of Franchise Agreement. Franchising Law & Practice, 2.

(6)

CCNZ Ltd v Booth [2012] NZHC 481.; Vol. 481.

#### (7)

Jirna v Mister Donut of Canada [1975] 1 SCR 2. https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/4255/index.do.

#### (8)

Fitzgerald v H&R Block The Income Tax People Ltd (HC Palmerston North CP 93-89, 7 June 1990).

#### (9)

Beuker v H & R Block Canada Inc 2000 SKQB 584. https://www.canlii.org/en/sk/skqb/doc/2000/2000skqb584/2000skqb584.html.

#### (10)

Commerce Commission v Contours Exclusive Ltd [1998] DCR 615.

#### (11)

Miller v McDonald's Corporation 945 P.2d 1107 (Or App 1997).

### (12)

Hadfield, G. Problematic Relations: Franchising the Law of Incomplete Contracts. Stanford Law Review **1990**, 42 (4), 927–992.

### (13)

Dymocks Franchise Systems (NSW) Pty. Ltd v. Todd (New Zealand) [2002] UKPC 50, [2002] 2 All ER (Comm) 849.

Spencer, E. C. Unintended (or Are They?) Consequences: The Interaction of Standard Form and Relational Contracting in Franchising; Bond University Press: Robina, Qld, 2011; Vol. Colloquium series.

(15)

Franchising Law and Practice - Chapter 2 Regulation of Franchising. Franchising Law & Practice.

(16)

Competition and Consumer (Industry Codes—Franchising) Regulation 2014; Attorney-General's Department.

(17)

Australian Competition and Consumer Commission v Kyloe Pty Ltd [2007] FCA 1522.

(18)

Gehan Gunasekara. Franchising and Misleading or Deceptive Conduct: An Analysis of Litigation (2010) 16 NZBLQ 68. NZBLQ.

(19)

Master Education Services Pty Limited v Ketchell [2008] HCA 38.

(20)

TFAC Ltd v David [2008] NZCCLR 38, CIV-2006-404-003984 Dec 11, 2007, Baragwanath J.

(21)

David v TFAC Ltd [2009] NZCA 44.

(22)

Poulet Frais Pty Ltd v Silver Fox Company Pty Ltd [2005] FCAFC 131.

(23)

Valda Video Ltd v United Video Franchising Ltd HC Auckland CP 123/00, 21 August 2001.

### (24)

Fair Trading Act 1986; Vol. 1986 No 121.

## (25)

Buckan, J.; Gunasekara, G. Administrative Law Parallels with Private Law Concepts: Unconscionable Conduct, Good Faith and Fairness in Franchise Relationships. Adelaide Law Review 36 (2), 541–576.

# (26)

Parliament of Australia. Opportunity not opportunism: improving conduct in Australian franchising - Chapter 5 Issues Arising During Franchise Agreements. http://www.aph.gov.au/Parliamentary\_Business/Committees/Joint/Corporations\_and\_Financi al\_Services/Completed\_inquiries/2008-10/franchising/report/c05.

# (27)

Diab Pty Ltd v YUM! Restaurants Australia Pty Ltd [2016] FCA 43.

(28)

COMPETITION AND CONSUMER ACT 2010 - SCHEDULE 2 The Australian Consumer Law.

(29)

Terry, A.; Giugni, D.; Terry, A. Business & the Law Chapter 21 - Misleading and Unconscionable Conduct.; Thomson Learning: Southbank, Vic, 2005.

### (30)

Auckland Express Service Centre Ltd v AA Auto Service Ltd HC Auckland CP664-SW01, 5 February 2002.

## (31)

Luce Optical Pty Ltd v Budget Specs (Franchising) Pty Ltd [2005] FCA 1486.

### (32)

Health Club Brands Ltd v Colven Botany Ltd [2013] NZHC 428.

## (33)

Parliament of Australia. Opportunity not opportunism: improving conduct in Australian franchising - Chapter 6 The End of a Franchise Agreement. http://www.aph.gov.au/Parliamentary\_Business/Committees/Joint/Corporations\_and\_Financi al\_Services/Completed\_inquiries/2008-10/franchising/report/c06.

### (34)

Commerce (Cartels and Other Matters) Amendment Bill - New Zealand Parliament. https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/00DBHOH\_BI LL11153\_1/commerce-cartels-and-other-matters-amendment-bill.

### (35)

Fisher & Paykel Ltd v Commerce Commission [1990] 2 NZLR 731.; Vol. 2.

### (36)

Outboard Marine Australia Pty Ltd v Hecar Investments (No 6) Pty Ltd (1982) 66 FLR 120.

Commerce Commission v Hewlett Packard (New Zealand) Ltd [1993] 3 NZLR 252.

(38)

Australian Competition & Consumer Commission v Mayo International Pty Ltd & Ors [1998] FCA 808 (10 July 1998).

http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/federal\_ct/1998/808.html?stem=0& amp;synonyms=0&query=mayo.

(39)

Freeman v Garden Hotel Ltd HC Christchurch CP 208-97, 22 December 1998.

(40)

Intellectual Property Pty Ltd v Mygroups Pty Ltd [2006] FCA 15.

(41)

Terry, A.; Forrest, H. Where's the Beef - Why Burger King Is Hungry Jack's in Australia and Other Complications in Building a Global Franchise Brand (2008) 28 Nw.J.Int'l L.& Bus 171. Northwestern Journal of International Law & Business **2008**, 28 (2), 171–214.

(42)

Skids Programme Management Ltd v McNeill [2012] NZCA 314, [2013] 1 NZLR 1.

(43)

PPO (NZ) Ltd v Wallace HC Auckland CIV-2010-404-007527, 15 December 2010.

(44)

Mark, A. 'The Regulation of Franchising Around the World' in The Franchise Law Review.; Law Business Research Ltd: London, UK, 2017; Vol. The law reviews. (45)

Franchise Association of New Zealand - Code of Ethics and Code of Practice. http://www.franchiseassociation.org.nz/fanz-codes-and-rules.html.

(46)

Ministry of Economic Development. Review of Franchising Regulation in New Zealand, Discussion Documents.

(47)

Cabinet paper on the outcomes of the review of franchising regulation | Ministry of Business, Innovation and Employment.

http://www.mbie.govt.nz/info-services/business/business-law/past-work-older-topics/docum ents-and-images/cabinet-paper-on-the-outcomes-of-the-review-of-franchising-regulation-by -hon-simon-power.pdf/view?searchterm=Review%20of%20Franchising%20Regulation%20.

(48)

Seldon, A. C. Beyond the Law and the Contract: Strategies for Effective Franchise Relationship Self-Management; Bond University Press: Robina, Qld, 2011; Vol. Colloquium series.

(49)

Gehan Gunasekara and Tiffany Lee. Franchise regulation 'Reviewing the Review' -Franchise New Zealand. http://www.franchise.co.nz/article/1226-franchise-regulation-br-reviewing-the-review?cat\_i d=13.