

AUSTRALIAN BUSINESS LAW REVIEW

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EDITORIAL 405

ARTICLES

Ex ante information and ex post reality for franchisees: The case of franchisor failure – Jennifer Buchan

Ex ante, the franchisee is provided with a significant amount of information; about the franchisor, the risks of becoming a small business person and what is expected of franchisees in the network. The scope of the franchisee's precontract due diligence is framed by the contents of the franchise disclosure document, the franchise agreement, any claims made by the franchisor, material provided by the franchise regulators, the Australian Competition and Consumer Commission and by the professional and personal experience of the franchisee's advisers. It is constrained by the franchisee's budget. Significant and numerous asymmetries exist ex ante between the franchisor's position and the franchisee's information. These asymmetries are brought into stark relief if the franchisor is placed into administration or becomes insolvent. This article examines information available to the franchisee ex ante about the possibility of the franchisor failing. 407

Insubstantial, tenuous and vague laws – The achievement of ecologically sustainable development by water supply business CEOs – Jennifer McKay

Ecologically sustainable development (ESD) appears as a goal of laws regulating the environment and also in specific act creating water supply businesses... In addition to these requirements, there is a willingness of many businesses to report on their ecological footprint in annual reports to maintain their social licence to operate.. This study established that there were approximately 333 water supply businesses in Australia and these had with 14 different legal forms; 183 of the CEOs of the largest suppliers were interviewed in relation to achieving sustainable water management. The results show that CEOs were keen to implement ESD and considered it to be part of the social licence but were searching for understanding of the meaning of the Australian definition. The interviewed CEOs were asked about their ability to achieve ESD, to rank the effort that they have put in to achieve it, and to identify the barriers to achieving their ESD objectives. The results indicate a pessimistic outlook in relation to ability to achieve ESD related to a lack of community cohesion and lack of coordination between government agencies. 432

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