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**BRINGING YOU WORLDWIDE
DEVELOPMENTS IN
BUSINESS, LAW, ECONOMICS & POLITICS**

INTERNATIONAL FRANCHISING

International Franchising: Australian Legislative Update

by Karen Taylor DelPriore

Increasingly, businesses of all types and sizes are looking to international markets for expansion. Franchisors are no exception. With franchising now an option in more than 140 countries, international expansion is often a lucrative option for expanded reach. However, not all franchise regulations are created equal and keeping up with changes in local legislation can be a daunting task.

For U.S. franchisors, the first option for international expansion is often other English-speaking markets such as Canada, Australia and the UK. Though they share a language, these countries each have an individual legal system and unique franchise legislation.

For example, Australian regulators released amendments to their franchise law on June 4, 2010 which will be phased in, starting July 1, 2010. The amendments mainly added clarity to the franchisor's disclosure requirements in hopes of reducing the number of franchise disputes arising from inadequate disclosures.

Franchisors are now required to provide more information on the arrangements and process that will apply at the end of a franchise agreement's term, including whether the franchisee will have the option to renew, extend or enter into a new franchise agreement; whether and under what circumstances the franchisee will be entitled to sell his or her business; and information on the right of first refusal of the franchisor.

The amendments also require franchisors to disclose all payments to third parties, if they have knowledge of such payments or if such payments are reasonably foreseeable, regardless of whether the third parties are affiliated with the franchisor. Franchisors must also disclose any unforeseen capital expenditure requirements that were not disclosed before the agreement such as those outlined in an Operations Manual.

Along with these amendments, the Australian Competition and Consumer Commission was given new power to conduct random audits of franchisors to ensure their compliance with the amendments.

International expansion can provide worthwhile rewards for U.S. franchisors, if done with the proper legal advice and care. Kirton & McConkie stands ready to assist with domestic and international franchising needs.

BIOGRAPHY

Karen Taylor DelPriore

Ms. DelPriore is a member of Kirton & McConkie's International Law Section. She specializes in assisting U.S. and foreign companies and non-profit organizations with international business transactions, including customs registrations, transfer pricing issues and entity formations. She frequently assists businesses with issues such as foreign market entry strategy, tax and customs compliance, and entity management. Her practice also involves franchising issues, both domestically and internationally. She assists clients with franchise registration and ongoing compliance issues. Ms. DelPriore joined the firm in 2007.