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COMPLIANCE OF FRANCHISOR WEBSITES

A website is an essential marketing tool for every business, but it is worth checking on a regular basis whether your website complies with current legislation.

Notification of registered address

Since 1 January 2007, every website should contain details of the registered address and number of the trading company to whom the website belongs (and email address for e-commerce websites). The rules are similar to the details that must appear on your company letterhead and invoices. If the business is VAT registered, the VAT registration number is also needed. The general view is that not every page of your website needs to contain the details, but that it must be somewhere on the website, such as on the contact page. If you have sections of your website for your franchisees, their details should be set out on their page. In addition, their trading name should be set out.

The rules can apply to emails as well as to letters, so it is recommended that you provide to your franchisees a standard footer that will automatically attach to each outgoing email. An example footer for a limited company franchisee is in the box below. The middle section can be adapted for websites.

Sample email footer

This email and any files transmitted with it are private and confidential and are intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the sender and delete immediately from your system. [Trading name] has taken reasonable precautions to ensure that any attachment to this e-mail has been checked for viruses, but you are strongly recommended to carry out your own virus check before opening any attachment. [Trading name] can not accept liability for any damage sustained as a result of software virus infection.

“A [Trading name] franchise owned and operated under licence by [Franchisee Ltd] trading as [Permitted Name]. [Franchisee Ltd] is a company registered in [England and Wales] with registered number [number] and registered address [address] [VAT number for sales]

[Other contact details if you wish such as trading address (if different from registered address), telephone and other details]

Accessibility

The Disability Discrimination Act requires people providing services to take reasonable steps to ensure those services are accessible to disabled people. This includes services or information provided through a website so you must ensure that your website is viewable by those with visual difficulties, or that your website has an alternative format. Despite this legislation, an investigation by the Disability Rights Commission in 2005 found that over 80% of sites failed to satisfy basic accessibility criteria. You can find a useful summary of the legislation and the Website Accessibility Initiatives and guidelines at the RNIB website

www.rnib.org.uk. RNIB and various websites offer accessibility audits of your website, many of them free of cost.

Security

If your website contains e-commerce, and you take payment from the website, then you should ensure that you have proper encryption and security, or that you use a payment processing provider that has adequate levels of security.

Supply Terms

It is advisable for any website that includes e-commerce to include supply terms drafted by your lawyer. These can set out payment, delivery and refund policies (see below) but can also help to limit your liability. It is important to ensure that the customer has viewed and accepted the terms before entering the contract and purchasing from your website.

As part of this process, you should consider who is entering the contract. If the online sales from an allocated territory belong to the franchisee from that territory, then you may wish to set up that the terms of business for that franchisee (not the franchisor) apply to the sale and that it is the franchisee who enters the contract. Alternatively, the franchisor may enter all online contracts and sub-contract the fulfilment to the franchisee and pay over the proceeds to the franchisee. If that is the case, the franchisor should be aware that it is legally liable to the customer directly, and it should ensure that the franchise agreement covers the situation so that the franchisee has to reimburse the franchisor for any problems (which may be tricky if the problem is caused by the franchisor's processing of the order).

Online sales and cooling-off period

If the website involves e-commerce, the Distance Selling Regulations and the E-Commerce Regulations will also apply. In addition to company (or business if not a company) details referred to at the start of this article, you must amongst other things:

- notify prices clearly, including details of any taxes (such as VAT) and delivery costs
- give details of your trade associations, professional bodies or authorisation schemes
- ensure customers can store and reproduce your terms and conditions, such as by downloading and printing
- give details of whether the contract will be filed by the supplier and whether it will be accessible by the customer
- inform customers of the process and steps to complete the contract (making clear at what point the customer is committed)
- promptly acknowledge receipt of orders electronically
- ensure customers can easily check and correct an order before it is complete

If the website sells to consumers, in addition to consumer protection legislation and legislation covering defective goods the customers have additional rights. These include that in addition to the requirements above, you must:

- not supply goods or services that have not been ordered and then demand payment
- not send sales or "junk" mail if the customers asks you not to
- confirm each order in writing and give details of how to cancel it (you must give details of the cooling-off period)

- (in most cases) allow a cooling-off period of 7 working days during which time the customer can cancel the order for any reason
- deliver goods or perform services within 30 days unless agreed otherwise
- refund any money taken by fraudulent use of the customer's credit card

These regulations apply to most businesses selling goods and services at a distance but there are exceptions including in relation to financial services, leisure and transport services or everyday food and drink products (please check with your lawyer for details on exceptions).

Similar requirements apply when you sell online to business customers. However, business customers do not have an automatic right to cancel.

Misrepresentations

It is important that your website does not contain any misrepresentations or untrue statements and claims. This applies to the sections of your website that sell goods or services to customers, but also applies to any section or separate website aimed at recruiting franchisees. Misrepresentation is one of the most common complaints by franchisees. Every franchisor should ensure that any material, including websites, aimed at potential franchisees, contains accurate, up-to-date information and does not make false or unsubstantiated claims, for example in relation to potential earnings.