In the midst of an economic storm, there’s never a better time to heed that old boy scout motto ‘be prepared’. Entering into a new business relationship is just the same. Dr Michael Schaper, deputy chair of the Australian Competition & Consumer Commission (ACCC), says education is extremely important for new franchisees. “From an ACCC perspective, education about the franchise sector is a way of achieving compliance both for franchisees and franchisors,” he says. “It’s important to understand your rights and responsibilities. As a franchisee you need to ask the right questions before you enter an agreement. It’s a good idea to work with professional advisers too. Both franchisees and franchisors need to understand their roles.”

Preparation in the form of extensive research and self-education ensures that people entering a franchise agreement do so with their eyes wide open. Being informed helps franchisees mitigate the risk of starting a new business, even if it is within an established franchise system. Organisations such as the Franchise Council of Australia (FCA) and the ACCC are key sources of information for prospective franchisees and anyone associated with the sector. As well as providing written information online, the FCA and the ACCC are actively involved in educating the sector. Regular seminars and presentations around the country ensure that anyone interested in franchising has plenty of opportunities to become informed.

Legal, financial and business

Continued page 4

In tough times, being well informed lowers the risks in starting a new business

Look before you leap, franchisees advised

Deb takes out the award as 2008’s woman of the year

All smiles: Deb Shugg, winner of the 2008 MYOB Franchise Woman of the Year title in the MYOB Excellence in Franchising Awards, with John O’Brien, retiring Chairman of the Franchise Council of Australia (left) and Tim Reed, chief executive officer of MYOB. The awards, organised by the FCA, were presented at a dinner held in the Big Top at Sydney’s Luna Park in October. Report, page 7
Continued strong growth in the franchising sector over the past two years is the key finding of the Franchising Australia 2008 survey. A picture of the franchising industry from 2006–08, the report provides an important overview of the sector including growth, turnover, employment, confidence, trends, expansion and number of disputes.

“It’s really important for the sector to gather consistent, reliable data,” says Professor Lorelle Frazer of Griffith University, which was commissioned to undertake the survey on behalf of the Franchise Council of Australia (FCA). “A lot of countries don’t have that kind of information.”

The report, which gives a broad overview of the sector, was based on data collected at the beginning of 2008, so does not reflect the changed financial climate of the latter part of this year. “The next survey will be conducted in 2010, so our report of this year. “The next survey will be conducted in 2010, so our report

Although the majority were optimistic that their sales and profitability would be the same over the next 12 months, they also predicted that employment would remain static or decline within that timeframe. In brief, franchisors were trending toward a negative perception of the economy over the next 12 months.

Despite this uncertain outlook for the future, Professor Michael Powell, Pro-Vice Chancellor (Business), Griffith Business School, says: “The continued growth and maturation of Australian franchising is impressive, particularly considering the current economic outlook, a recent change of government, and a franchising sector that has faced close government scrutiny.”

FCA executive director Steve Wright adds: “Another pleasing feature of the survey is that the statistics show a decline in disputes – a result, we believe of greater awareness of the obligations of all participants in the sector – franchisors, franchisees and advisers.”

The Franchising Australia 2008 survey is not the only study of the sector to have been completed this year. Specialist franchise consulting firm DC Strategy has just completed a two-year study of every franchise system in Australia and its report suggests that about 250 of these account for the majority of growth and franchise resales in the industry. As reported on www.smartcompany.com.au, company representative Adrian McFedries predicts that an economic downturn will highlight the inherent problems in poor performers. “This economic cycle will sort out the companies that make good decisions.”

A recent report by the Franchise Relationships Institute (FRI) focused on consumer sales performance and optimism in the franchise sector and found that despite the economic downturn the industry is generally optimistic.

The report’s author, FRI managing director Greg Nathan, writes: “Franchisors rate themselves as very optimistic about the future, with an average optimism rating of 3.9 out of 5, while they rated their franchisees as just moderately optimistic, with an average optimism rating of 3.1.”

Nathan’s interviews with senior managers from 50 franchise networks concluded that “franchise networks that are up in sales are focusing more on going back to basics while those experiencing downward sales are focusing more on improving systems and new product development”.

Professor Frazer says that the results of the Franchising Australia 2008 survey gives the sector important signals. “Our research throws up a lot of interesting questions, but it doesn’t necessarily give you the answers,” he says. “It’s a great starting place for further research.”
Look before you leap

From page 1

experts with experience in the franchise sector are guest speakers at such presentations but it is often the experienced franchisees and franchise owners who share their stories that have the most impact on seminar participants.

Nader Seifen, a La Porchetta franchisee in Melbourne’s north-eastern suburbs, recently spoke to potential franchisees at a seminar in Melbourne and agreed that it is vital to do as much research as you can before taking on a franchise business. “One of the best things I did before becoming a franchisee was to read Greg Nathan’s book Profitable Partnerships. I honestly think that book should be read by every prospective franchisee.”

Seifen also argues that another crucial preparation tool for prospective franchisees is to talk to as many established franchisees as they can. Getting the benefit of other people’s experience is one of the best ways to avoid making mistakes.

“You must have a mentor,” Seifen suggests. “It doesn’t have to be someone within the industry, but you need someone experienced in business to help you navigate the system.”

Martin Rose, TopDog at franchise system HydroDog, also urges prospective franchisees to be as informed as possible. “Education is vital to minimise potential risk,” he says. “You need to do your homework. There are potentially thousands of people who will be going into the franchise business in the next two years. They’re looking for the protection of a quality brand and in my opinion it [franchising] will be the only place to be, but you need to be prepared.”

A guest speaker at a recent franchising seminar, Rose was impressed by the calibre of speakers and the value of the information available to prospective franchisees. “I believe that anyone looking at getting into the franchise business today should have been at the seminar.”

The recent “What to know before buying a franchise” event held in Melbourne was run by the FCA in conjunction with the ACCC and Small Business Victoria and will be part of a nationwide FCA effort to ramp up pre-entry education in order to deliver new franchisees who are more aware and therefore more likely to succeed, and avoid some of the pitfalls which challenge all small business.

In a recent article for Business Franchise Magazine, ACCC chairman Graeme Samuel wrote that “done right, and with the appropriate care, franchising can offer an exciting new career path to business ownership.”

FCA executive director Steve Wright agrees. “The FCA and the ACCC are in tune when it comes to promoting the education of prospective franchisees looking into buying a franchise business. The law encourages franchisees – first time and every time thereafter – to get all the information they need to make an informed decision. One of the most important functions of the Franchising Code of Conduct is the obligation it places on franchisors to provide useful information and prospective entrants to exercise appropriate due diligence.”

“Prevention is always better than a cure,” advises Dr Schaper from the ACCC. “When people are better informed they make better decisions.”

For more information about franchising and a list of forthcoming seminars and events visit www.franchise.org.au

A list of frequently asked questions and an extensive checklist for franchisees are available at www.accc.gov.au

A CHECKLIST FOR NEW FRANCHISEES

- Is this the right franchise for you? Assess your strengths and weaknesses thoroughly
- Get professional advice from an accountant, lawyer or other business expert with experience in franchising before making any commitments
- Verify the franchisee’s financial details, analysing profit and loss and annual reports. An accountant or business adviser can help you with this
- Research the franchise – has it ever been the subject of a dispute or legal action?
- Ask for a list of current and previous franchisees so you can speak to as many people as possible before making a commitment
- If there is a lease involved in the transaction, make sure you know whose name it is in, the terms of the lease and your rights and obligations
- Do you have the skills to run the franchise? Ask the franchisor what training is available and what skills you will need
- Make sure any promises made by the franchisor are written down
- Before you sign any agreements make sure you have read the Franchising Code of Conduct and have received and read a disclosure document and a copy of the final franchise agreement
- Make sure you understand what fees and payments are due and when
- What period of time is the franchise agreement for? Can you negotiate an extension? What is your exit strategy if the franchise is not renewed?
- If the deal is not acceptable, try to negotiate a better offer or find a better deal elsewhere.
- Remember, extensive planning and research will help you make an informed decision
While focus on the current economic crisis may have many in the franchise sector concerned about future growth and profits, there’s more to managing risk than simply making sure profits keep coming in an economic downturn.

According to Barry Thatcher, NAB’s national manager for five years and has been an official Franchise Council of Australia (FCA) partner for two.

Brent Lehmann from Willis Australasia has been working with the franchise sector for five years and has been an official Franchise Council of Australia (FCA) partner for two.

One of the clearest barometers for the business world is the amount of money businesses are prepared to spend on advertising and the response that advertising gets. For example, Mike Ramsay from Charter Security says franchise models are really good at looking at the front end of the business but often lack knowledge of how to cover risk.

“What if you buy a franchise and then three days later you have an aggressive armed hold-up?” Ramsay says. “Without staff training in how to deal with the situation, the potential liability is huge. Franchisees have a duty of care to their staff. As part of a whole business model you need to consider personal, financial and asset risk and put good measures in place to deal with them.”

A security firm such as Charter Security can do an assessment, report on problems and put a strategy in place to reduce risk. Some of these strategies may include CCTV cameras, staff training or organising rosters to avoid putting the most vulnerable people at risk. An audit system for stock, for example, can help identify theft soon after it happens. A well-organised evacuation system will get staff to safety in the event of fire or other threat – all simple, straightforward strategies to reduce liability and improve safety.

“People invest a heap of money in buying a franchise,” Ramsay says, “so it makes sense to protect that investment.”

Protecting your business also means planning for the downturn. “There’s the reflection of changing consumer behaviour,” Ramsay says, “as people are seeing is businesses becoming more focused on where they spend their money.”

While slower global growth, flat home prices and continuing low commodity prices looks a certainty for 2009, the franchising sector may be one of the few industries to defy the trend. According to Barry Thatcher, NAB’s national manager for franchise banking, a growth in unemployment may actually have benefits for the industry.

“Unemployment is now at 4% but it is likely to be 6% in 2009. This is a positive for franchising as more people will be looking for business opportunities. Franchising in the past few years has been hindered by an inadequate supply of good franchisees. Some franchise systems will flourish in these new economic conditions.”

Changing consumer habits will also benefit some franchise systems, Thatcher says. “While bulky discretionary goods may be at risk,” he says, “traditional low-value, fast-food businesses do much better.”

Anecdotally, a number of retail chains are saying their sales have improved and many systems are looking buoyant.

While some franchise systems may do well from a downturn, Thatcher says it’s less clear how other types of franchise systems will fare.

“At this stage we’re unsure as to how service franchise systems will go,” he says. “There’s the reflection of changing consumer spending versus a desire to keep up a certain lifestyle. It’s a big question mark.”

Not so super, but with care patience can be rewarded

A nyone with a superannuation portfolio will be looking at their declining returns over the past 12 months with concern. From returns of about 15% to 20% at the height of the boom, the Super Ratings Credit Rating Survey 50 Balanced Index, or SR50, shows some industry performers have now returned losses of up to 20.76%.

From this standpoint, says CareSuper CEO Julie Lander, CareSuper is doing better than most, relative to the market. With a -15.7% return for the balanced option for the 12 months to 30 October 2008, CareSuper is doing better than the industry average of -17.61%. CareSuper is ranked eighth of the 50 largest super funds, and Lander credits its performance to careful asset allocation and manager selection and the fact the fund is run only to profit members.

“The returns of more than 15% a few years ago were simply not sustainable,” Lander says. “Now we’re seeing a confluence of bad factors that are affecting every asset class. It will eventually swing back although I don’t think the volatility is going to disappear in the next 12 months.”

The sudden loss in superannuation value is particularly stressful for people thinking of retirement in the next few years. However, Lander says it’s still a good idea to get money into superannuation because of the tax benefits. An option for investors nearing retirement is to direct new superannuation deposits into conservative funds, and draw down from these as required while they wait for the market to recover.

It’s also worth remembering, Lander suggests, “that money invested now is invested at the point of greatest opportunity. If you’ve got patience, now is actually a good time to invest.”

More information:
www.franchisebusiness.com.au
www.chartersecurity.com.au
www.nab.com.au

Franchise Council of Australia (FCA) for Catch, the company that runs www.franchisebusiness.com.au, the official manager for Catch, the company that runs advertising and the response that advertising future growth and profits, there’s relative to the market. with a -15.7% return for the balanced option for the 12 months to 30 october 2008, caresuper is doing better than most, 2008, caresuper is doing better than the industry performers now recording losses of up to 27.41%.

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It’s also worth remembering, Lander suggests, “that money invested now is invested at the point of greatest opportunity. If you’ve got patience, now is actually a good time to invest.”
A Federal Parliamentary inquiry has recommended that ‘good faith’ should be a part of all aspects of franchising including, for franchisors, franchisees, and even potential franchisees considering joining the sector.

This is a sensible approach, which is similar to the ethical standards requirement for all members of the franchising peak body, the Franchise Council of Australia (FCA), according to its executive director, Steve Wright. He was commenting on the outcome of a Federal parliamentary inquiry into franchising, which was handed down in Canberra early in December.

The inquiry’s aim was to examine operations in the sector and to identify ways in which they could be improved to ensure the rights of all participants and the healthy functioning of the sector. The report made a number of recommendations aimed at protecting the rights of small businesses and ensuring access to effective, low-cost dispute resolution for those finding themselves in conflict.

Mr Wright said it was very positive for the sector that the report noted the importance of ethical behaviour in negotiations and the need for meaningful disclosure practices by franchisors and good due diligence by franchisees, as well as access to quality legal, accounting and business advice.

‘Good faith’ was a sound principle underlying these concepts, and it was sensible that the Parliamentary report did not link the notion to any specific area of franchising, he said. This could have had the negative effect of creating uncertainty and potential legal argument about the precise meaning if the phrase had been linked to a particular phase or event in the franchising process.

“This is an issue which does need very careful handling,” Mr Wright said. “Everyone supports good faith. But the ACCC, the Law Council, the FCA and a number of other influential representative groups have warned of the danger of an undefined good faith clause being added to the Franchising Code in regard to a particular event, such as the end of a franchising agreement.”

The Parliamentary Joint Committee on Corporations and Financial Services tabled its report following a five-month inquiry, taking in more than 150 submissions from franchisors, franchisees, suppliers, academics and others.

The report, titled *Opportunity not opportunism: improving conduct in Australian franchising*, was available to the public at www.franchise.org.au.

Mr Wright said the committee report was also sensitive in that it chose not to endorse some of the potentially destabilising recommendations made to it, such as ‘automatic’ franchise renewal, goodwill payments and the linking of franchising agreement non-renewal to a possible breach of the Unconscionable Conduct provisions of the Trade Practices Act.

While suggesting some improvements are needed to dispute resolution, the report does not adopt submissions by some for creation of a new franchising tribunal, which could have added to bureaucracy in an already strictly regulated sector.

Mr Wright said the FCA had questioned a few of the recommendations. “Precious penalties for breaches of the Franchising Code of Conduct could be harsh,” he said. “Registration of franchise systems is another recommendation which may lead to more compliance cost, but with little gain for franchisors or franchisees.”

“The report, along with the impression to a potential franchisee of some form of guarantee which is not actually delivered by registry alone.”

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**Report says yes to ‘good faith’ in franchising**

**THE SCORECARD**

- need for franchisee due diligence and increased pre-entry education and professional advice
- encourage further franchisor disclosure
- more power to the ACCC to look at possible breaches of the Franchising Code
- registration system for franchisors
- another review of the Code
- fines for Code breaches

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**Concerting wisdom**

The 2008 National Franchise Convention brought together franchisees, franchisors and suppliers to learn, do business and be inspired. The biggest convention of its kind in Australia, the meeting provided participants with opportunities where open-ended discussion led to more learning, more sharing and more solidarity.

The National Franchise Convention 2009 will be held at Burswood Entertainment Complex, Perth on 19–21 October 2009. Save the date!

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**MYOB EXCELLENCE IN FRANCHISING AWARDS – 2008 WINNERS**

- **7-Eleven Stores** – Franchisor of the Year
- **The Coffee Club Group** – Food Franchisor of the Year
- **Hotondo Homes** – Service Franchisor of the Year
- **Mark Maumill and Jason Love of Banjo’s Corporation** – Franchisee of the Year
- **Mr Rental** – Emerging Franchise System of the Year
- **Craig Emerson** – Media Campaign of the Year
- **Corporation Ecowash Mobile** – Mobile Franchise of the Year
- **Bakers Delight** – Media Campaign of the Year
- **Pacnet – Supplier of the Year**

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**CUSTOMER SERVICE MAKES CHRISS A VIP WINNER**

Chris Hammond, a V.I.P. Commercial Cleaning franchisee from South Australia, is the 2007-08 V.I.P. Franchisee of the Year. Chris joined V.I.P. in 1999 after migrating from the UK with his family.

The final stage of the Franchisee of the Year competition was held in Adelaide. Contestants were judged by V.I.P. Australia founders Bill and Rose Vis, V.I.P. New Zealand master franchisees John and Estelle Logan and the V.I.P. national sales manager, John Millar. Although the field was particularly strong, Chris was chosen because of his knowledge of the V.I.P. system, the outstanding level of service he provided to his customers and his willingness to help other franchisees and potential franchisees with their businesses.

Although Chris competes in the price-sensitive commercial cleaning industry, he has been able to steadily increase the number of clients he services. “People like the fact that when they use my service, I ensure that either myself or one of my staff completes the job to the same agreed-upon standard, each and every time. We do not employ casual workers, who don’t take pride in their customer service. It is my business, and therefore I ensure that each and every one of my customers is treated like a VIP.”