

NEWSLETTER 2



After visiting various clients to discuss risk management, we have recognised that it is a common human failing not to learn from our mistakes and the mistakes of others. A prime example is the maiden voyage of the Titanic. The Captain of the ship knew full well the risks that lay ahead and yet his enthusiasm and instructions from his masters over rode his common sense. We all know the tragic story behind the Titanic and the tremendous loss of life and wealth. However, we still run our businesses in the same manner as Captain Smith - doing little to mitigate or eliminate those risks.

And don't forget...it was not the top of the iceberg that caused the damage. It was the remaining 90% which sat under the water and which could not be seen. Thus we have another paradigm of life - although we talk about an accidental loss in a business and we cover that particular loss with insurance, that relates to only 10% of the total iceberg. The remaining 90% are those financial risks that are seen as consequential losses due to that initial incident. And as per the iceberg, 90% of the iceberg is below the water.

At Franchise Foundation Ltd we want to show you the remaining 90% which can cause fatal loss for you and your business. Thus, we ask the question, "are you avoiding the iceberg and what Insurances should you have in place to ensure your own business and that of your franchisees is able to run smoothly when faced with adversity?".

At Franchise Foundation Ltd, we are a point of reference for all insurance matters for franchise operations and make a point of keeping our clients advised of developments relating to franchising. It is only through this information that you can make informed business decisions.

In this publication we are looking at changes in legislation relating to resource consent/code of compliance certification.

Newsletter



The best time to buy insurance is when you don't need it because when you do need it you won't have it - and in some cases won't be able to buy it in the future!

10% of the Iceberg shows in the code of compliance, 90% of the Iceberg covers . . .

Directors & Officers Liability

Business Interruption Insurance - has it been set up correctly?

Contract Works Insurance

Advanced Loss of Profit

Did you know ... it is an offence to allow public access to buildings which do not hold a Resource Consent or Code of Compliance Certificate (CCC)?

This legislation took effect as from 30 November 2004, especially focussing on retailers who have authorised building work/improvements being carried out which affects public access.

As a Franchisor it would be very prudent to ensure that your Franchisees are aware of this new legislation and have consent in place before they let the public onto the premises. Failure on your part could result in a hefty fine relating to you Statutory Liability and Directors & Officers Liability insurance policies. Note also that if you as the Franchisor hold the lease you can also be held liable for permitting the public to enter the property due to failure to fulfil the statutory requirement.

We also strongly suggest that the **Business Interruption** policies be reviewed to ensure that the indemnity periods are long enough to ensure that the Loss of Profits extension is payable up to and including the time that CCC is provided.

Another issue to be considered is **Contract Works** insurance for new buildings and/or fit outs. If there is a delay in issuing of the CCC then this will have an affect upon advanced Loss of Profits cover. Accordingly this can be an issue in regard to on-going liability of the business. Which can bring a hefty fine of up to \$200,000, with a further fine of \$20,000 per day for continuing breaches.

In the event of any accident it is **YOU** that will be liable as the Act continues to expressly make directors and managers of offending corporations liable in these instances. Note, the exception is in the event that it can be proved that the directors or management, (Franchisors and or Franchisees) knew absolutely nothing and could not of been expected to have known that the offence was to be or

was being committed. More and more Franchisor's are being held under scrutiny at the "leaders" and are therefore the ones liable for any Franchisee errors.

The best protection for you and your business is an effective **risk management plan** and **comprehensive insurance cover** purchased through a broker who knows the franchise industry. Through taking an active role in the Franchise Association, specialist brokers are able to explore avenues to protect clients and their families. In selecting professional service providers it is important to select those that keep up-to-date with legislation and how it could impact on your livelihood.

If you wish to discuss these insurance issues with us please phone us.

Phone 09 827 7266, Fax 09 827 7269

Franchise Foundation has been established specifically to assist the franchise Industry - tailored with you in mind.