

Meeting News...

LES Scotland Meeting (1st November 2011, Harper Macleod)

“One Franchise, please! Do you want fries with that?”

The Licensing Executives Society (LES) November event was held at Harper Macleod’s office in Edinburgh and provided an excellent insight into the real world commercialities of franchising. The focus of the speakers was on the part which intellectual property assets (‘IP assets’) play within franchising and all the speakers were unanimous in agreeing that IP assets play a crucial role. The event was hosted by LES Scotland Committee member Chris Bartlett who welcomed the audience and the speakers.

David Kaye and Michelle Graham. David Kaye is a Partner and Head of the Retail and Franchising department of the law firm Harper Macleod and Michelle is in the Business Advisory department who specialise in IP and technology matters.

David set the scene by giving a brief overview of the development of the legal landscape relating to franchising including an insight into the legal documentation that you would expect to find in franchising today. The basic premise being that the franchisor in such an agreement retains ownership of the intellectual property and as the network of franchises grows, the value of the intellectual property and the brand grows accordingly with it.

Michelle took the audience into the nitty gritty of legal issues and gave a detailed account of the IP assets that most commonly exist in franchising agreements and gave some useful guidance on commonly occurring issues that should be dealt with. This included ensuring that goodwill accrued by a franchisee transferred to a franchisor and taking steps to ensure that a franchisee does not infringe the franchisor’s brand rights. There are many types of franchise and if the agreement only covers the trademark of the franchisor then there are obvious pitfalls regarding the other IP assets belonging to the franchisor as well as misuse of the trademarks.

Euan Fraser. Euan who has been advising franchised businesses for many years founded AMO Consulting in 2000, a franchising consultancy advising clients throughout the UK and overseas.

Euan gave a fascinating insight into the world of franchising and focussed on exploring the differing franchising models. Many in the audience were surprised about the pervasiveness of the franchising business model which is being used by the likes of Marks and Spencer, Ralph Lauren and Nike. Many of these brands are keen to make use of franchising which is, along with the growth of intellectual property exploitation, becoming ever more attractive as a business model.

Euan explained that in choosing the right model businesses/franchisors must think about a great many factors including: speed of access to market, control over service delivery, creating a profitable start point and importantly what is the “hook” that will draw in the best franchisees. This is usually IP – the knowledge of how the business works and why it is successful.

Euan used Ekko Glass Crush & Collect service (a glass crushing and recycling service), a company which has recently launched franchising opportunities, as an example of a company protecting a strong IP portfolio and encouraging businesses to replicate their business model.

Suzie McCafferty – Platinum Wave Ltd offers international franchising support services. With Smart Cartridge Suzie also developed first hand experience of growing an international franchise business from the ground up. She also has experience in managing large corporate franchise operations.

Suzie regaled the audience with her story of developing the Smart Cartridge franchise from scratch to a successful international brand with the company having more than 70 franchisees across six countries. From the humble beginnings of a single store in Haymarket, Edinburgh, she said that entering the world of franchising happened by chance when customers made enquiries as to whether franchise opportunities existed. From there Suzie and her business partner investigated the business franchise model and went on to successfully franchise Smart Cartridge including through international markets.

Suzie explained that potential franchisors, when contemplating a franchise agreement, must ensure they do the following: keep up to date with the latest trends, register the relevant IP such as trade marks to protect the brand. She also said that keeping a tight grip on franchise agreements, reviewing the business' supplier network regularly and streamlining IT systems and infrastructure were crucial in preparing for a potential franchise.

She then moved on to give her views on how to make a success of international franchising. Intensive market research is crucial, she said, to prepare for entry to such a difficult business model in an international environment. By making the model relevant to different markets the franchisor will be more likely to succeed in challenging conditions. Suzie went on to highlight the strengths of the franchising models including accelerated growth and increased brand awareness. It isn't all plain sailing, however, and there are many business challenges such as the initial outlay and recruiting the right partners.

Suzie ended her presentation with her top tips for success which included knowing your market and your competitors, seeking the correct professional advice, proving your concept to make sure your brand and business model will stand the test of time and not to underestimate the constant investment required to make the franchise a success.

Thanks to Harper Macleod who hosted the event and provided fantastic hospitality.

Nat Baldwin
Metis Partners