

Is Russian Roulette your game?



Jonathan Kaplan is a consultant solicitor with Meerkin & Apel Lawyers in Melbourne and is a NMAS accredited mediator. Jonathan can be contacted on (03) 9510 0366 or 0418 588 855.

Planning on buying or setting up a hospitality business? This month **Jonathan Kaplan** gives us a crash course in the pitfalls one might need to avoid.

I was recently requested to present at a workshop on starting up a cafe or restaurant. The majority of attendees had never been involved in the hospitality industry, although some had limited experience working in it. My role was to present on the legal aspects of buying or setting up a hospitality business, but when the participants heard that I had actually owned hospitality businesses, much of the focus turned to the more practical aspects.

Take, for example, one of the questions asked during a break by a participant, which went something like this: "I want to start my own restaurant and have worked in a number of restaurants to get the 'feel' and some experience. It was quite brutal. Is that the norm?" My response, without wanting to be discouraging was: "Not really, as a business owner it can get a lot worse, so be well prepared". I asked her whether she could visualise the chef calling in sick at 6am, and another of the key employees a little later, the dishwashing machine giving up the ghost at lunch time and the point of sale system crashing simultaneously. That's brutal. I also mentioned that after all of that, when the doors shut, she would have to attend to legal and compliance issues. She then asked: "What qualities do you need to work in the industry?" Not blinking I responded: "Passion, boundless energy, good people skills and a great bunch of enthusiastic employees. If you can combine all of that at the same time... and a friendly bank manager would be useful for the quiet times".

I was really there to talk about the legal issues involved in buying or starting a hospitality business, so I wondered how the brutality of the legal and compliance issues of owning a business would be handled by the woman concerned. It is these compliance issues that negatively affect the profit margins that restaurateurs so dearly cherish and often take them away from the tasks that they know; that is, working in the restaurant.

Consider compliance with food safety legislation. You must not only have a food safety plan but you must also implement and maintain it. That involves keeping meticulous records. For example, you need to record daily temperatures inside your refrigeration equipment and also for incoming food deliveries, and you also need to regularly calibrate the thermometers. All of these are time-consuming tasks, not forgetting having to deal with environmental health officers should there be a complaint of food poisoning or perhaps a routine food audit. If you receive a customer complaint and your records are carefully maintained, you may be able to convince the EHO that you are running a safe business. I have on many occasions represented clients charged with food legislation contraventions and I can assure you that the publicity

does not do the business much good, so keeping good records is critical.

Having traversed the food safety minefield you cannot ignore your GST obligations. If you are going to calculate that yourself be prepared to burn the candle at both ends. You will need to capture invoice data every day and grapple with calculating your GST obligation for each period. An alternative is to engage a bookkeeper to come in on a regular basis to take over that aspect of your business, if you can afford one in the early stages.

You will also need to find a storage area for all of your invoices because the ATO requires you to retain them for seven years. You will realise how irritating this is when you have limited space and need that for saleable stock.

What about employment legislation? Is the Fair Work Act (FWA) really fair? Well, maybe for some. You will need to acquaint yourself with the unfair dismissal provisions and the penalties for making a mistake. That can be very costly.

If you are fortunate to have built your business into a successful operation, payroll tax will also become an issue – another cost that will nibble away at your profit.

So, if you are intending to enter the hospitality industry you should not be deluded that it's all about creating an exciting menu and being able to deliver a quality product. And speaking of menus, if you are intending to impose a surcharge on weekends and public holidays you may not simply state in your menu that prices will be 15 per cent higher on those days. You will need to publish "surcharge inclusive" prices to avoid breaking the law.

Today, running a restaurant is not only about staying on top of food trends and satisfying the needs of the punters; it's also about staying on top of the legislative requirements on both a state and federal basis – which can be all-consuming.

What does this mean for you? You will need to decide whether you want to play "compliance roulette" with all the associated risks and rather focus on your food offer or take a safer alternative.

It's probably a good idea to take a moment to analyse what aspects you can reasonably attend to yourself and what tasks would encroach upon your involvement in the "food" part of your business. If you are able to delegate tasks to other responsible employees, that's great. But for the more complex (and confidential) tasks such as bookkeeping, payroll and other financial tasks, you should engage external assistance.

Bear in mind that guidance on most of these issues can be sought from your industry association, but ultimately it's up to you how brutal you would like the experience to be. It need not necessarily be so at all with proper delegation of tasks.

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