



Australian
Competition &
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Commission

Trade practices **start-up checklist** for small business



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Thinking about buying or joining a business?

Starting your own business can bring significant benefits and generate a sense of achievement. However, it can also involve a degree of risk. For many, buying a business is just as big an investment as buying a home, which means there may be just as much to lose if anything goes wrong. To minimise risk, it is essential that you check out the real facts before making a final decision.

Below is a checklist to assist you through this process. The checklist highlights the main things you should do and watch out for before starting your own business.



Warning signs

Most vendors are likely to be open and honest with you. However, you should be wary of those vendors who:

- ✗ claim that you can make large amounts of money quickly and with little effort
- ✗ are reluctant to provide any written information
- ✗ require upfront payments before any information is released
- ✗ are reluctant to provide financial information about the profitability of the business.

Before you sign

It is far easier to stop a problem from getting out of hand in the first instance than to try and remedy the damage afterwards. Before making a commitment to invest in a business you should consider the following:

- Obtain professional advice from your accountant, lawyer and/or other business experts before making any commitment.
- Obtain the financial details of the business and verify as much information as possible. For example, analyse the profit and loss statements and any annual reports that may be available. If you do not have the expertise to do this, ask your accountant or business advisor to do it for you.
- Find out as much information as you can about the vendor. For example, has the company ever been taken to court? You might check the Australian Securities and Investments Commission website for company details and visit the ACCC website to check if the trader has been the target of any ACCC enforcement action. You should also contact your local state or territory consumer affairs agency.
- Insist the vendor put all representations in writing. If the vendor is unwilling to back up in writing any oral representations take that as a warning sign. If you do receive any oral representations from the vendor, confirm those representations in writing as soon as possible and invite the vendor to endorse them or to amend them.

- Keep copies of any written correspondence and statements made by the vendor that you rely on in making the investment decision. It is more likely that the ACCC will be able to assist you if you are diligent in doing your homework and are able to provide documentary evidence of what you were told and what information you relied on in making your decision.
- Read all documents and contracts carefully—do not sign anything without reading it first.
- Ask questions before signing and make sure you understand what you are about to sign and that you understand the answers.
- Ensure you have everything you need to run the business. Ask the vendor if there are any specific requirements needed to operate the business, for example you may need a particular type of license or skill.
- Understand the lease agreement if there is one involved in the transaction. Make sure you understand the terms and your rights and obligations under that lease agreement. Understand your options or your position when the lease expires. Do you have a renewal option? Is that option yours to exercise?



Your rights and obligations

Remember that while the *Trade Practices Act 1974* provides protection against unacceptably harsh commercial behaviour, protection is unlikely to be afforded if you simply make a bad deal.

Plan well, be diligent with your research and get good advice before starting your business. Consider the risks the business might face and establish a strategy for dealing with new challenges as they arise.

You should also make sure you are aware of all your obligations under the relevant laws and consider establishing a trade practices compliance program suitable for the size of your business to minimise the risk of breaching the Act.

For more information about the Trade Practices Act and trade practices compliance programs, go to the ACCC website at www.accc.gov.au or contact the ACCC on the small business helpline 1300 302 021.





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