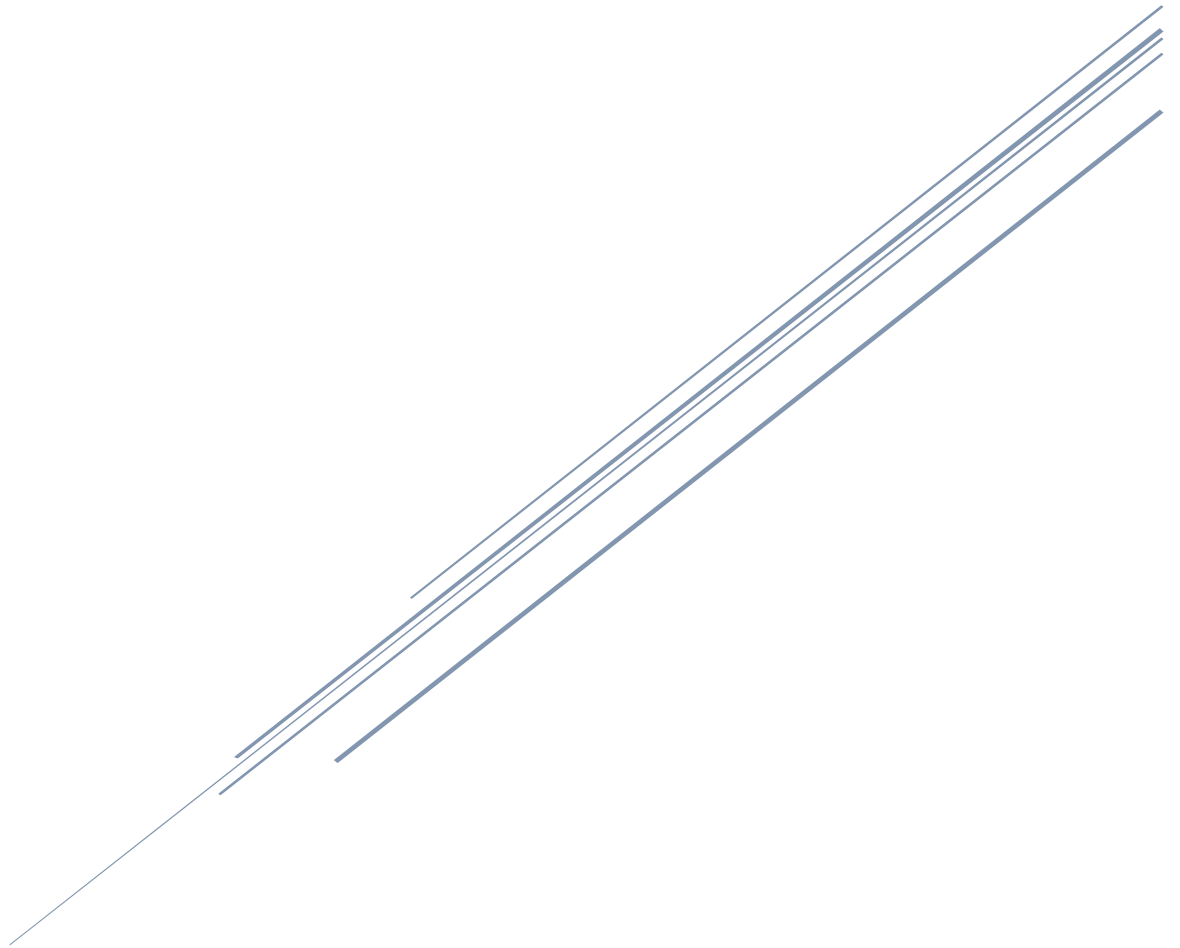


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The ex-Domino's Franchisee of Mount Colah [NSW] Store



INQUIRY INTO THE OPERATION AND EFFECTIVENESS
OF THE FRANCHISING CODE OF CONDUCT

Domino's Pizza Enterprise treatment of their franchisee

Key issues

Domino's Pizza Enterprise's [Domino's Pizza Head Office] unfair treatment of their franchisees, including:

- Questionable recruitments practices
- Unfair pressure to split store territories
- High fees and charges on their services and stock sold to their franchisees
- Questionable practices on their behaviours towards their franchisees
- Lack accountability for the technologies pushed and sold to their franchisees
- Questionable treatment of Franchisee while exiting the Franchise network

My Experience

In order to describe my treatment by DPE during the 27 months of my involvement with this brand, I would break down the experience to four different phases as follow:

- 1. Franchisee Recruitment**
- 2. Splitting Store Territory**
- 3. Ongoing Operations**
- 4. Selling the Franchisee**

Firstly, a brief history of how I became a Domino's Franchisee:

In early 2014, after 22 years of working in the Information Technology and Telecommunication industry, my business partner and I started a business venture by looking into investing our life savings in a Domino's Pizza franchise store located at Mount Colah [NSW]. This undertaking lasted less the 2 years and resulted in us losing a substantial amount of capital, but more importantly the stress and hardship that was forced on more than 4 families.

Astonishingly, during the short time of 3 years dealing with this predatory company, I experienced such unjust treatment from an ever-expanding public company that could be categorised in the following ways:

- Deceptive franchise recruitment,
- Pressure and intimidation to split store territories,
- Unfair fees and charges,
- Heavy product discounting,
- Unfair treatment of their franchisees,
- Constant changes to the environment and rules and regulations of trade,
- Lack of responsibility towards the Technologies pushed onto their franchisees [including poor transparency around any Service Level Agreements],
- Increased demand from franchisee whilst shrinking profit margin,
- Unsustainable business model and planning,
- Unfair sale process.

1. Franchisee Recruitment:

My recruitment experience is as follows:

In May 2014, we [my business partner and I] paid \$89,000 as the deposit for the store situated in Mount Colah in North West of Sydney that was recommended by a friend's connection whom has been a long time Domino's Pizza franchisee.

While we did research into the company about whether it would be a good fit for us, we also heavily relied on the friend's advice, as they had 15+ years of experience in the industry, and in particular the Domino's Pizza brand.

It was amazing how in the early stages, the reality of dealing with an unethical and corrupt company started to become visible. We started facing the higher-ranking individuals in the organisation applying pressure on us, by not approving our application to qualify for the next phase in recruitment [training], and applying pressure during the training and prior to signing the Franchise Agreement.

When we applied to buy this store, we were made aware that we would need to renovate the store. This would cost as about \$100,000, and after doing some research into the store, we realised a more opportune location for a Domino's Pizza store would be in Hornsby (which was also in our territory). This was because this was where much of our business was coming from, and it made more sense to us to pay to relocate the store than pay to renovate the store. However, Domino's Pizza Head Office refused to allow us to relocate.

Whilst we accepted the first condition in renovating the current store, the following option of forced splitting was so unfair and illegal that we had to seek legal advice and resist it.

2. Splitting Store Territory

The process of forced territory splitting started by Domino's Head Office verbally offering us \$65,000 to purchase the northern part of our allocated territory so they could establish a new shop in Berowra Heights. The interesting fact was, based on claims made by the franchisee who we purchased the store from [at the time in July 2014], Domino's Pizza Head Office previously offered him up to \$120,000 for the same area and he refused their offer.

I asked Domino's Pizza Head Office to put their verbal offer in writing on a company letterhead and signed by the appropriate people. I could not accept their offer until I sought proper legal and financial advice, and couldn't do so until seeing the appropriate information.

For a while, it appeared Domino's Pizza Head Office was withholding approval of our application to become a franchisee unless we would agree (through their pressure) to sell part of our territory. In early July 2014, as the new session of their 6 weeks training was about the start, I became anxious as the lack of approval meant we had to wait for another period before we could take over the shop. Consequently, I sought advice from a lawyer about our rights, as extending our wait without any clear decision was preventing us from working and making money.

Simply, the lack of approval by Domino's Pizza Head Office meant we were not able to cancel the contract with the owner, so we had to either have to break the contract and lose the

\$89,000 deposit, or had to continue waiting for Head Office indefinitely and not be able to work.

Once I advised Domino's Pizza Head Office about our decision to go to court if we did not receive any decision, initially they increased their verbal offer to \$100,000. Then upon my instance that I receive a written offer with all the details of the contract, they finally accepted our application and offered us to head to the Brisbane Head Office to commence our training on 15th of July 2014.

To be clear, they still had not put their offer to buy part of our territory in writing, despite my requests.

We attended the training at their Brisbane office, and found that Domino's Pizza's recruitment was designed so that the new franchisees needed to start their training in Brisbane, and it is here that they are issued a new Franchise Agreement - while they are away from their lawyer and Accountants. And there is no negotiation on the terms and conditions of the Franchise Agreement. So you take it or leave it, while you are doing your training.

We started our training, thinking the pressure put onto us by Domino's Pizza Head Office to sell part of our territory had finally stopped. We were wrong. From the second week of our training, we were repeatedly subject to the pressure of meeting with Domino's Pizza executives with different proposals. This back and forth tale lasted until week 4, when solely because of the intimidation and pressure, we felt we had no choice but to accept their offer of \$100,000 for the Berowra Heights' territory so Domino's Pizza could open a new shop.

In the meantime, we were finally provided with the new Franchise Agreement, which we had 21 days to review, seek advice, sign and return to them [whilst being in Brisbane away from our accountant and lawyer].

Although the new Franchise Agreement had a map of our renewed territory, it was not clearly printed. So, we made it clear to them that we would only accept their offer of \$100,000 for part of our territory if they would provide us with a clean, clear map of the territory, including street names.

It took them one week to finally provide us with a reproduced map, and it was at this stage that we realised they were planning to take a massive area - much bigger than they had alluded to us verbally - and that included territory so close to our existing shop that it made little commercial sense for us to agree to it. They refused to modify the zone so it would be fair to us.

We now think that producing us with a distorted map, without visible street names and being generally unclear, may have been an attempt to trick us into giving up much more of our territory than we had meant to. Had we not been experienced in the corporate world, and had we not known to ask for clarity, for contracts and offers in writing, and had we instead just trusted Domino's Pizza Head Office at their word, we no doubt would have ended up in a situation that we have sadly heard about happening to other franchisees.

So we refused their offer again, and were again subjected to threats, intimidation and pressure, this time from the Marketing Manager. He said words to the effect of, *"if you do not work with us, I will make sure you suffer,"*.

Their approach was so daunting to us that the Chief Operating Manager at the time (the current CEO of Domino's Pizza Australia and New Zealand) came to my business partner and I, asking for our forgiveness and apologising for their team's behaviour. Furthermore, the course instructor who had witnessed our engagement with their management, at the end of the training and during the course graduation, apologised and asked us to forget their behaviour and start our journey with a fresh approach.

3. Operations:

Coinciding with our settlement and taking over the store [8th of September 2014] the new, temporary, 'all day everyday' \$5 pizza promotion had commenced. As a result of this new offering, we witnessed a dramatic rise in Food and Labour cost which in return eroded the profit of the business that we purchased. The plan for this marketing strategy was to overcome Pizza Hut's campaign and was supposed to last for 3 months, also they provided a relief on the marketing fees for the duration. Obviously, the price reduction brought a large increase in customers and the sales had increased.

However, after a few months, Domino's Pizza Head Office decided to maintain the \$5 pizza offer and removed the marketing fee relief. Therefore, our expenses went up in running this campaign meaning we had less profit, but Domino's Pizza Head Office increased their profit because they were collecting royalties, marketing fees, and rebates on the supply chain increase due to the increase in sales.

It also wasn't just the \$5 'all day everyday' pizza promotion that was impacting us, but once every couple of months, they announced a "Mega Week" campaign which entailed heavy discounting under the name of increasing customer counts and increasing market share. However, this wouldn't be classified as a marketing tool, and the franchisees had to take the weight of selling high volume of products at a loss, while Domino's Pizza Head Office was making money by collecting the royalties and marketing fees, as well as the rebates on the supply chain.

I also had other operational issues. Domino's Pizza Head Office expected franchisees to meet 15 minute and 20 minute guarantees to customers who were willing to pay extra. If we did not meet this guarantee, we had to give the customer a free pizza on their next visit. This was at our cost, not Head Office's cost. We simply could not meet this guarantee and failed on many occasions.

Additionally, Domino's Pizza, by using their use of Big Data, managed to analyse their profit margin in an efficient way, and started organising a heaving discounting campaign through digital marketing, without any announcement to franchisees.

Overall, this approach was designed to increase their profit margin without considering their impacts on the bottom line of their franchisees. During this time, Domino's Pizza refused to change their strategy despite continuous complaints from their franchisees. The monthly franchisee meeting were dedicated to how Same Store Sales [SSS] figures have increased, but the concept of franchisee's profit was not a topic that were in focus. Just because the sales in our stores increased, did not necessarily mean we had any profit increase at all.

Whilst the profits were disappearing, Domino's Pizza were introducing new technologies (like GPS tracking to improve the customer experience) at a high cost to the franchisees, without any increase to the price. Hence, yet again another marketing tool without being classified as marketing. Therefore, more pressure on the Profit margins and also the complexity of the operations.

The concept of the operations and increased complexity by introducing all these new technologies required a new focus. Therefore, a new series of staff education at different levels (whether in-store or drivers, as well as the management of the store). As a result, the cost of labour increased, and instead of easing the pressure on franchisees, Domino's Pizza Head Office was adding the different compliance schemes that franchisees needed to adhere to. If they did not comply by these schemes, they would be punished during their regular auditing.

Nevertheless, as I feel that the franchise system does not give franchisees many options or rights, nobody was able to take any action, as their feedback was refuted by the Domino's Pizza teams and were told "that's the way it is".

On a personal note, in a monthly meeting [which were a one sided affair of being told what to do and not to ask any questions] that the CEO was presenting the future plans, I asked him if he could explain the Domino's Pizza Business Plan, so I could adapt that with my own business planning process. In response, he became angry and started shouting at me, telling me: "*who do I think you are*". He said, "*Domino's has only promised Turnover and not profit*". He asked me, which store I owned and "*if you don't like it, you can sell your shop and leave the system*".

In brief, the following new pressures were introduced in a period of less than 12 months:

1. Disappearing profit margins through heavy discounting of products
2. New technologies at extra cost, without adding any profit and increasing operational risks
3. New compliance measurements and added complexity to the operations

Service Level Agreements

While you introduce technology into your business, most of these technologies are purchased and obtained from Vendors and Service Providers. In order to secure your investment against any issues you may face due to the Technology failure, you need to accompany your contract with a Service Level Agreement (SLA).

In the case of Domino's Pizza, forcing various technologies into the operations of each store and closely measuring the usage of them, the natural expectation would be Domino's Pizza taking responsibility towards maintaining these technologies and making sure they are operating properly or in case of any failure, they have a robust SLA with their Vendors/Service Providers to either resolve the issue in a minimum down time otherwise there would a financial penalty to cover stores damages.

Unfortunately, Domino's Pizza's approach [as shown in the attached documents] was completely short of this approach, and in the numerous times that my store had encountered technical problems, I witnessed not just an incompetence towards resolving the issues to minimise the damage, but also arrogance as to why I would question their performance in resolving the issues.

As an example: In June 2016, Sydney's witnessed an enormous thunderstorm and Power outage. As a result, both Amazon Data Centres lost power and Domino's Pizza's Online Ordering System failed on Sunday night, when we were facing a great number of orders due to the people experiencing power outage.

After a couple of hours outage, the Domino's Pizza's IT team managed to recover the Online Ordering System, however, instead of making sure the platform was fully functioning before they opened it to the public, they allowed customers to start ordering. As the system was not fully functional, the customers were not issued with their order confirmation, therefore ordering multiple times and paying for their food.

At one stage, my team made up to 4-5 times of one order and in some instances, they delivered them multiple times before realising the issue. However, at the end of the shift, the store had to throw out a substantial amount of excessive prepared food, and pay for extra labour to make and deliver this food. And I had not only to reimburse the customers as they were charged repeatedly, but also give them some extra goods to satisfy their inconvenience. The result for us was incurring thousands of dollars in wasted food and labour that no one took responsibility for.

Domino's Pizza's response was simple. According to them, it was Amazon's fault and they had no responsibility towards our outage and problems. In my opinion, this reaction could be because of the following:

1. Domino's Pizza did not sign a proper SLA contract with AMAZON, or
2. Domino's Pizza did have a proper contract but did not want to provide franchisees with the rebate

In either case, as was most of the time, Domino's Pizza refused to take responsibility and had little to no intention in assisting their franchisees.

4. Process of Selling the Franchisee:

After 1 year of operation, it was obvious my Mount Colah store needed to be restructured in many fronts in order to face both increasing labour and food costs. Based on an analysis, I managed to plan a restructuring in partnership in our store ownership, and creating a new partnership with a neighbouring Domino's store, in order to open a new shop in Hornsby and probably two other shops in the potential zones that could improve our efficiency, whether operationally and/or financially.

At this time, it was obvious the financial situation of the shop was not improving and we had to stop taking money from the business and started injecting cash into the operations as we accepted that the business was no longer sustainable. In my case, I was lucky that my wife's business was alright and we had to solely rely on her income.

I did so many things to try and show Domino's Pizza Head Office that not only was I willing to reinvest in their brand, but that we all could profit out of this new plan. I had done mapping and financial forecasting of this plan involving other franchisees who had agreed to partake in it. I sent all of this to them and never heard back.

So, since all the avenues were blocked by Domino's Pizza, we were left with no choice but to seek a buyer to sell the business.

At the time, there were 2 potential buyers keen in purchasing our store and we were actively negotiating the terms of the sales. At this stage [mid December 2015] another existing Franchisee with the backing of Domino's Pizza Head Office approached us and showed interest in purchasing our shop. After a few sessions of discussions, we agreed on the price [\$965,000 and the deadline of end of March 2016 for the settlement]. Subsequently, the buyer asked for the information and data to start the paperwork.

Therefore, the next logical step for officialising his interest in purchasing our store was to draft a contract and paying the deposit so we should stop searching for the buyers.

Unfortunately, despite the multiple attempts in progressing with the plan, the buyer refused to do any of the two. By April 2016, I decided that enough is enough, and started speaking with the other potential buyers and even a Broker to seek their requirements in case we need to engage one.

In order to prepare the requirements, I needed the terms for the extension on the Franchise Agreement as well as answers from Domino's Pizza Head Office to other questions. They started questioning my intentions. They started asking why we were looking in selling to other parties rather than that particular franchisee. And in response to my logic that he is not interested, otherwise he would have paid the deposit and signed the contract, they said, we advise you to sell it to him as anyone else may not be approved by us (Domino's Pizza Head Office).

Once I told the potential buyer that I refuse to wait for him any longer and won't sell it to him because of his lack of action, I have received phone calls from the Franchisee Consultant and her boss the Franchisee Director, and they advised me to wait for him and sell it only to him otherwise they are not approving any other buyers.

So we decided to sell the money-losing store. Domino's Pizza Head Office was only approving their favourite franchisees to purchase that, and no other buyers, but even the favourite franchisee is not coming forward.

Hence we were stuck with a dead-end solution and pressure was mounting; I personally was under a lot of pressure and losing weight as I was seeing all my 22 years of life savings disappear. My wife and parents were feeling the pressure seeing me under this load and nobody could help. I was seeing a psychologist to see if I could make some sense of the situation. But everyone I spoke with were unable to justify Domino's Pizza Head Office's treatment and approach.

At this stage my legal bill was growing as we were told to engage a solicitor earlier in February. We were told the lawyers drafted the contract and sent it to the interested party to sign. And for this we were asking for the solicitors' advice to see our best way forward without any luck.

At the same time, Domino's Pizza Head Office were mounting more pressure on our KPIs to see even further improvement. Whilst the only way to implement these improvements was to open other stores - one in Hornsby and another one in Berowra Heights - and this was solely due to the bad location the Mount Colah store was in. Much of these problems could have been solved at the outset, when I asked to relocate the store instead of renovating the store. So, the mounting pressure and no solution on the horizon was taking financial, physical and emotional tolls on me.

Consequently, the intensifying pressure of the unrealistic KPIs like 15 or 20 minutes guaranteed delivery of the pizzas, or even 100% satisfaction guaranteed marketing campaigns in an area like my territory, was taking its toll on mine and my family's health.

I was feeling isolated, close to having a nervous breakdown and couldn't find any way out. But I could not let go, as all of my lifetime savings were in danger of being lost, simply because I was dealing with a big, publicly-listed company that only see their profits and have no respect for others, even those who are working 24 by 7 and invested almost \$1,000,000 in their brand.

By May 2016, finally we saw some traction, the interested party had come forward. Him and Domino's Pizza Head Office created a joint venture and used all of the Domino's Pizza Head Office legal team to purchase the store from us. But they refused our solicitor's contract, and they pushed their own version which removed all the rights from us as the seller - rights such as being paid a deposit to pay damages in case they pull out of the contract at any time.

The contract was so unfair, that our lawyers advised us to reject it. And so we did. After a few weeks they came back with another contract, but they still wouldn't pay the deposit, simply because they are this big company and they said they would pay our damages in case they pull out of transaction.

At this stage, based on our lawyers' advice we accepted the terms and conditions and signed the contract but they still refused to nominate a specific date for the settlement.

Finally, after a couple of weeks they agreed on 25th of July, so for tax purposes the transaction was to take place in the new financial year.

Whilst all this was happening, in the background Domino's Pizza Head Office was mounting pressure on us to replace the freezers, because it is unfair to the new owners [who were Domino's Head Office] whilst they have already agreed to purchase the store with the existing equipment and at no time raised any concern or issue about the condition of the equipment. They even threatened to revoke our licence if we failed to comply with their request prior to the settlement date.

Exposing Their Conduct

I made a tough decision to speak out about the way Domino's Pizza Head Office conducts their affairs, their treatment and utter disdain for franchisees, their pressure and intimidation if you dare to question or raise concerns, and their overall pursuit for growth and profits above any consideration for the people who invest their time, resources, energy and money into running their brand.

Domino's Pizza [REDACTED] made comments on the radio, which were widely reported on and published in Fairfax Media. He said this about myself and other franchisees who also spoke out:

"They blackmail us upfront and say well we're not paying this back or we're going to the media.

"They then go to the media and they're made out as if they're whistleblowers or heroes.

"These are the criminals who did the wrong thing, so that's just absolutely absurd."

The fact that he essentially referred to me as a "blackmailer" and "criminal" is utterly untrue, defamatory, and really highlights the way they treat their franchisees who blow the whistle on their misconduct.

Recommendations

I would recommend that Franchisors like Domino's Pizza be held properly accountable for their actions.

Refusing potential buyers - like they did with me - and forcing me to sell to a favourite franchisee who was in a joint venture with Head Office should be properly disclosed. The number of joint ventures they have with their franchisees, which stores they have joint ventures in, and whether these franchisees are being bankrolled by the company should also be properly and clearly disclosed by the company at the time of purchase and sale of a store.

Finally, I would propose the following points to be considered in the Franchise legislation in order to provide a fair and sustainable environment for all parties involved in the Franchise business:

- The Franchise Agreement should be provided to the potential new Franchisee prior to Domino's Training,
- Franchisors should not be able to threaten the new Franchisees with the new unfair conditions,
- A proper marketing fund and planning auditing and decisions should allow the franchisees input,
- A transparent Supply Chain Rebate, between the Franchisors and Providers should be visible to the franchisees, and a potential cap should be applied towards their profit margins against their franchisees,
- Franchisors should be accountable for their incorrect advice towards their Franchisees,
- The operational hours of each store should be based on the territorial requirements and based on the amount sales made and with franchisee's consultation,
- A proper Service Level Agreement should be included in the Franchise Agreement to protect the Franchisees in case of any Technology shortcomings.

I would also welcome the opportunity to be called as a witness and give evidence.