

Starting a business? 5 things to consider

Author : Sophia Kailis

Date : 6 June 2017



For new and expanding business owners, getting your commercial and legal documents in order is a must. It is when people fail to do so that problems arise. From ensuring your ideas are protected to making sure you have a clear structure in place to trade, it's important to lay the legal foundations for your new business early so that you can focus on the bigger picture.

In this article, we set out 5 important legal areas to address when getting your start-up going:

1. Intellectual Property

Intellectual property (**IP**) means exactly that – property of the mind. Put otherwise, it applies where a person creates or invents something, usually something of value. IP rights belong to the creator or inventor of a particular type of IP but are transferrable, for example through licence, assignment, sale and other means. There are many types of IP, including trademarks, copyright, patents, and design.

More often than not, the success of your business will depend upon having the proper safeguards around your IP. It is important to get these safeguards in place early by registering your IP rights where appropriate and regulating the use of that IP by third parties who might have access to your IP rights.

2. Business names and your website

Your business name is the name under which your business entity trades. Registration of a business name is compulsory for any trading business. Registering a business name does not give you any proprietary rights to that name: only a trademark can do that.

Business names are often also comprised in trademarks relating to a business and therefore become entangled in trademark infringement disputes. For this reason, in choosing a business

name, it is important to check that no one is using the name you have in mind.

Domain names provide the registered owner exclusive use of that web address. Ordinarily your domain name will be linked to your business name, so it's important to be aware of the same considerations noted above.

3. Terms and Conditions

Will your business supply its goods or services online or through an app? Are you setting up a storefront, or do you need commercial credit terms?

Each business is different and will have different practical and legal requirements. To provide clarity surrounding the goods or service you will supply, having a clear set of terms and conditions is essential. They enable you to disclose to your customers the way your service or website works, the terms on which users can access and use your service/website and what your users can do if they encounter a problem with your service/ website.

4. Commercial Agreements

The importance of sorting out the inner workings of your business should never be underestimated. If your business trades as a company, ensure that you have a shareholders' agreement. If you are trading in partnership, establish clarity around the partners' roles and responsibilities by way of a partnership agreement. As your business expands and takes on staff / contractors, work out the terms of employment or contract and record them accurately in an employment or contractor agreement.

5. Privacy Policy

Most businesses these days have an online presence. Where your customers or clients will be accessing your services online inputting their personal details (e.g. their name, address, gender), you want to ensure that the way in which you use their information is in accordance with relevant privacy laws in Australia.

Having a privacy policy in place is the best way to ensure your business compliance.

Pragma Legal has a [start-up package](#) which is specifically designed to address new and emerging business needs, including each of the above areas and other requirements your business may have. We've teamed up with accounting practice Carbon Group, who provide accounting, bookkeeping, cloud integration, insurance and finance services to business of all scale and sizes. With a suite of fixed-fee services, we work together to tailor your legal and accounting advice to suit your individual needs and ensure there's no double-handling or inconsistencies in the way we set you up.

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