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Thirdly, there is the "technical stuff"! Prospective franchisees want to know (or would want to know if they were aware of the issue) that at a technical level the franchise agreement "works". For instance, the agreement may refer to the Trading Schemes Act, – and too many franchise agreements simply require franchisees to comply with the Trading Schemes Act without actually explaining what that involves – impose on franchisees an obligation to do everything required by data protection legislation and require franchisees to accept non compete covenants. At the risk of offending non franchise lawyers, very few commercial contract lawyers would be aware of the Trading Schemes Act in the first place. Data protection is, of course, a well known issue, but not in relation to franchising where franchisors almost always want personal data about franchisees' customers to be provided to them, but that can only happen with the consent of the customer and so there needs to be a provision in the agreement that requires the franchisee to obtain it. Non compete covenants in franchise agreements have been considered in a large number of cases so that it is now known that they are treated in the same way as non compete covenants in employment contracts. Far too many lawyers who do not know about franchising are unaware of this. All of this is technical and "boring" but it is essential knowledge for anybody advising on a franchise agreement. Of course, non specialist lawyers can "bone up" on it, but usually that is done at the expense of their clients.

There are a number of other reasons why you should instruct specialist solicitors. The first is finding out who they are is relatively simple. The BFA has a list of affiliated lawyers on its website and so you can approach one or more of the lawyers on that list. Further, because those lawyers are experts in franchising, very often their charges in reviewing a franchise agreement are less than the charges of those who are not expert because specialist franchise lawyers know what to look for and do not have to "learn on the job"! Further, a franchisor is much more likely to take into account the comments of a well known specialist franchise lawyer than a lawyer who they have not previously come across and whose report may contain elements that indicate a lack of knowledge of franchising.

There is, of course, one final reason - if you are seeking advice you are better off seeking that advice from someone who knows than from someone who does not!

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