



## Bunfight looms under the golden arches

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□ Policy

THE good business reputation of fast-food franchisor McDonald's as a risk-free example of this type of business will be tested in a court case that will feature the services of a hot-shot US lawyer.

Robert Zarco has been shipped in by a McDonald's franchisee, Rod Hackett, who has been locked in dispute with the McDonald's head office since 1996. The flamboyant, "franchisor-prosecutor" will assist local lawyers in the case, which is set down for July 18 in Melbourne.

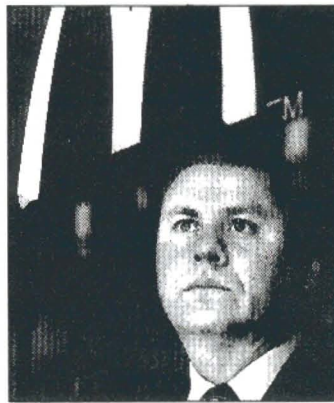
To make matters worse for the burger bosses of Australia, Mr. Zarco was last week retained to provide assistance to another legal team who will represent Hungry Jack's master franchisee, Jack Cowin, who is set to take on his franchisor, Burger King.

Like Mr. Hackett, Mr. Cowin believes that Burger King is unfairly affecting the profitability of his businesses.

These cases are both about encroachment or "cannibalization".

If the court finds against the franchisors, the decision will not only have profound profit implications for McDonald's and Burger King.

It may also undermine the already flagging fortunes of the local franchising industry, which



Hot-shot: Robert Zarco

has recently noted its troubles in selling franchises.

The concern has emerged since the introduction last year of the Federal Government's code of conduct rules.

The code insists on a detailed disclosure document that, franchisors say, has discouraged many potential franchisees from entering a franchise business.

The key issue of "encroachment" refers to a situation where a franchisor introduces a new franchisee into an area that formerly was thought to be exclusively the domain of an existing franchisee.

In the Hackett case, the franchisee, who once was highly rated in the organization, complained when two new outlets were planned for within 4km of his Fountain Gate restaurant in Melbourne.

While only one materialized, Mr. Hackett argued that his sales were significantly affected.

Attempts to mediate the dispute have now been exhausted and, with a court case pending, Mr. Hackett has called in Mr. Zarco.

When it comes to bunfights with McDonald's, Mr. Zarco has represented close to 80 franchisees in the US and elsewhere.

While he, like Mr. Hackett, praises the McDonald's system and products, he does not mince words when describing the corporation.

"McDonald's the company is not in the hamburger business, it's in the real estate business," he said. "It purchases a site and rents it out to a licensee and it's paid off in seven years.

"The more locations it can open, the better it is for the corporation's balance sheet and its stock price on Wall Street."

Mr. Zarco says this is why McDonald's is opening more sites and, in some cases, encroaching on areas serviced by an existing licensee. (McDonald's uses the term licensee in preference to franchisee.)

"This cannibalization is not unique to Australia. It went on in the US years ago and is now a problem in the UK and Germany," Mr. Zarco said.

McDonald's intends to defend Mr. Hackett's action. ■