



The Freedoms of Franchising

How much flexibility will you have as a franchisee?

By Darrell Jarvis

As a prospective businessperson, you are interested in establishing and operating your own business and being your own boss. By picking up this magazine, you are considering pursuing your interest with a franchise, rather than starting a new business from scratch. You may have found additional confidence from the promise of an established track record, existing systems and designs, and the offer of training, support and advice. However, by buying into a franchise, are you sacrificing the freedom you are looking for?

If franchisors were to create a recipe for the perfect franchisee, the ingredients would include attributes like business acumen, customer service orientation, leadership skills, and, depending on the franchise system, perhaps even a caring attitude or artistic abilities. Fundamentally, however, the recipe would also include one part entrepreneurship to two parts compliance.



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A fine balance

To a franchisor, model franchisees, especially those operating in remote markets, are 'making things happen' in their business, using the resources available to them rather than relying on the franchisor to do it for them. They are involved in their communities, whether as members of local clubs or social groups, and building their businesses through local events or co-promotions with businesses in town. They are vigilant about managing their costs and may have great ideas on how to optimize inventory, manage labour costs more efficiently and reduce waste. However, while franchisors encourage an energetic, hands-on approach to running a franchise, they also insist that franchisees stay within the parameters of the franchisor's system.

Overly entrepreneurial franchisees who change the business, introduce new products (or drop existing ones), switch suppliers or increase prices without the franchisor's consent will not fit well into a franchise system. Even franchisees who continuously advocate for such changes may quickly wear out their welcome. As you consider your path to owning a business, be mindful of franchising's unique balance between entrepreneurialism and compliance with established standards and guidelines.

A reason for standards

These constraints are typically in place for the benefit of all franchisees. A franchisor has created a business concept and developed it into a system, which may include the design and décor of outlets; product specifications; recipes; trademarks and logos; uniforms; signage; suppliers; and all the other elements of a successful franchise. Franchisors want to expand their brands through the consistent replication of outlets that remain true to the system.

A franchisor's insistence on compliance with system standards goes to the heart of franchising and delivering a consistent brand experience. Consumers are generally expecting to receive the same experience every time they interact with a franchised brand.

For example, if a value-conscious consumer buys a particular item at a retail franchise because of its low cost, she will expect to receive the same low cost every time at every location. Similarly, if a consumer is willing to pay more for a premium experience, she will expect to enjoy the same premium experience regardless of which location she chooses. This is true whether she is purchasing packaged goods, getting an oil change or ordering a steak.

When one franchisee fails to deliver the brand experience, he affects not only his own business, but also the business of other surrounding franchisees. This applies not only to those who fall below certain standards, but also those franchisees who create higher standards. For example, if one franchisee offers a superior experience that is inconsistent with the rest of the system, he is likely setting up the customer for disappointment should the customer visit a different location.

A two-way street

An enlightened franchisor may welcome ideas from the field about how to improve the business. However, it will be skeptical of

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a franchisee who arrives in the system knowing little about the business but soon determines that he or she knows more than the franchisor. It will generally have no tolerance for a franchisee who makes changes without consulting the franchisor. As a prospective franchisee, you would be well advised to assume you will not have an opportunity to alter the business system once you sign on as a franchisee.

This is not to suggest franchisors don't have to be responsive to the needs of local markets, especially when franchising internationally. An ideal franchisor will give you the flexibility to respond to local preferences, in order to remain competitive in the marketplace (while still insisting that you deliver on the brand's core values).

For example, I recall visiting a relative in northwest Ontario and going out to a franchised roadhouse-style restaurant for what was recognized locally as the 'best steak in town.' Before that meal, I wasn't even aware the brand served steaks, let alone high-quality ones. I suspect the franchisee had departed from the system standards—hopefully with the knowledge and consent of the franchisor—to take advantage of an opportunity in a relatively isolated market.

Franchise Factoid

Simply stated, a franchise is a special arrangement in which a franchisor grants the franchisee a licence to use its name and trademarks for a set period of time. As a franchisee, you are required to sell products and services in a manner consistent with other locations within the franchise system, in return for franchisor's name recognition, training, expertise and purchasing power. In return, franchisees pay an initial franchise fee and ongoing royalties.

Franchises should not be confused with business opportunities (biz ops'), which offer few of the benefits franchises provide. Biz ops typically focus on selling a given product (e.g. snack foods from a vending machine) without a proven operating system, with minimal training and ongoing support. **fe**



Tense times

This is also not to suggest that franchisors always get it right. Most brands need to continually improve and adapt to changes in the market in order to remain relevant and competitive. One would hope that changes initiated by the franchisor would be well thought out, well researched and adequately tested prior to roll-out to the field; this is not always the case. In some cases, franchisees may view the franchisor as being more concerned with driving sales (from which it earns its royalties) than with the franchisees' bottom line.

Often, the cost of change will fall largely on the franchisees' shoulders. Conflicts can arise when franchisees are required to invest in new equipment or processes to support the introduction of a new product or other change. While the franchisor will benefit from increased sales, franchisees only benefit if the change increases profitability. Depending on the timing of such changes, as a franchisee you may have a limited opportunity to earn back the full cost of its investment before your franchise term expires. Tension in a franchise system can be exacerbated if the franchisor is constantly changing plans and directions to meet perceived competitive pressures or consistently rolling out untested plans to the field. Unplanned additional expenditures during the term of your franchise agreement, without the assurance of a return on investment, can cause stress to you and your relationship with your franchisor.

Over the past couple of years, many franchise systems have experienced flat or declining same-store sales. When growth and profitability decrease, issues and conflicts that might have been less important previously (when everyone was making money) become the focus of concern. Issues relating to encroachment, product costs and use of advertising funds can move to the forefront for franchisees.

While you may have difficulty getting your franchisor's attention as an individual, franchisees are increasingly discovering the power of collective action, including the formation of franchisee associations.

Franchise legislation, in all provinces that have enacted franchise legislation, guarantees you the right to associate, or form or join an association. Franchisors are prohibited from interfering with or restricting your right to associate; they cannot directly or indirectly



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penalize you, or threaten to penalize you, for exercising this right. Any provision in a franchise agreement that seeks to interfere with, prohibit or restrict these rights is void. If your franchisor does interfere, it can be liable for damages.

Franchisee association

A franchisee association may be formally or informally organized; it can take many forms and serve many different purposes. It could be an ad hoc committee to deal with a single issue, or may become an incorporated entity with by-laws and policies to govern its procedures.

The association may aim to work collaboratively with its franchisor on matters such as the roll-out of a new process or product, development of encroachment-related policies or allocation of new outlets to existing franchisees. Alternatively, the approach may be more aggressive, with objectives such as re-negotiating contract terms. However, while the law prevents franchisors from inhibiting the formation of a franchisee association, it does not require a franchisor to recognize or deal with the association.

To be able to demonstrate its mandate, a franchisee association must be able to show it represents a significant portion of the franchisee base, and that its members include the franchisee opinion leaders. Franchisors may see the formation of an association as a threat, perhaps akin to the unionization, and might be concerned that meeting with the group will give it greater legitimacy. On the other hand, a franchisor's refusal to meet may actually harden the group's resolve, galvanizing and even expanding membership. The

issues that gave rise to the association in the first place will likely guide the franchisor's approach.

Despite the upset the formation of an association may create, an association may actually facilitate positive communication between you and your franchisor. In some cases, associations can also provide a moderating effect on contentious issues, allowing more outspoken franchisees to express their views and frustrations in a forum that is tempered by input from more restrained franchisees.

Franchise advisory council

A franchise advisory council (FAC) is typically a franchisee association organized by the franchisor, in which the franchisor may actively participate. Representatives of the franchisee community—often elected by other franchisees, with provision for regional representation—comprise the FAC (only franchisees in good standing are usually allowed to participate). Unlike franchisee associations, the franchisor may provide financial support and convene the meetings for an FAC.

These groups are intended to offer franchisees a formal channel through which to address ongoing issues and concerns with their franchisor. It can also serve as a way for franchisors to test or introduce new ideas or strategies, giving franchisees the chance to offer feedback.

FACs might even be formed by a franchisor as a pre-emptive approach to avoid the formation of an independent or antagonistic franchisee association. They can also be effective for franchisees, assuming the group is recognized by the franchise community as legitimate and not simply a 'puppet' of the franchisor.

Is franchising free enough for you?

Whether you have enough freedom as a franchisee probably depends on your context and expectations. If you are looking for the ability to fully shape your business to your own needs, franchising probably isn't for you. However, every prospective franchisee must weigh the benefits of complete freedom with the value a franchise system provides. With channels such as FACs available to air concerns, and a proven brand on your side, following the system may be your best chance at success. **fe**



Darrell Jarvis practises business law, with a focus on franchising and leasing, in Fasken Martineau's Toronto offices. He can be reached via e-mail at djarvis@fasken.com.

Time to Review

1. What types of standards do franchisors typically put in place?
2. Why is it important for franchisees to follow these standards?
3. What are the differences between a franchisee association and a franchise advisory council (FAC)?