

## What is a Franchise?

Franchising is not an industry in itself. Rather, it's a way of doing business that can be applied in almost any sector. Simply put, franchising is a business model that combines aspects of sole proprietorship and corporate America. It can be described as a "hybrid" model that fills the gap between working for somebody else, whether a large corporation or a small business, and working for yourself.

A franchise creates a legal and commercial relationship between the owner of a trademark, service mark, trade name, or advertising symbol and an individual or group wishing to use that identification in a business. The franchise governs the method of conducting business between the two parties. Generally, a franchisee sells goods or services supplied by the franchisor, or that meet the franchisor's quality standards.

## Types of Franchises

**Product Franchises-** Manufacturers use the product franchise to govern how a retailer distributes their product. The manufacturer grants a franchisee the authority to distribute goods by the manufacturer and allows the owner to use the name and trademark owned by the manufacturer. The franchisee must pay a fee or purchase a minimum inventory of stock in return for these rights. Examples of Product Franchises include: Mobil, Goodyear, Baskin-Robbins, and Ford Motor Company.

**Business Format Franchises-** This is the most popular form of franchising. In this approach, a company provides a franchisee with a proven method for operating a business using the name and trademark of the company. The company will usually provide a significant amount of assistance to the business owner in starting and managing the company. The franchisee pays a fee or royalty in return. Examples of Business Format Franchises include: McDonald's, Dunkin' Donuts, Carvel, and AAMCO.

**Manufacturing Franchises-** These types of franchises provide an organization with the right to manufacture a product and sell it to the public, using the franchisor's name and trademark. This type of franchise is found most often in the food and beverage industry, but can be applied to other industries. An example of a Manufacturing Franchise would be Coca-Cola.



Call now for your free consultation.

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# Franchise Guidebook

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Prior results do not guarantee a similar outcome.  
This guidebook is for informational purposes.  
Since individual situations and legal issues vary, it is important to  
contact an attorney to discuss your specific legal situation.*

## Advantages of Becoming a Franchisee

Just like any other business structure, a franchise is no exception to the rule of having both advantages and disadvantages associated with owning such a business. Some of these advantages include but are not limited to:

- Avoiding the unnecessary trial-and-error period in starting and operating a new business.
- In exchange for payments, franchisees gain privileges, including the right to sell a proven and recognized product or service, to use the franchisor's business practices, and to receive initial training and ongoing support.
- The franchisee has an opportunity to run a proven business concept with a successful operational track record.
- Rights to use the franchisors' brand names, trademarks, copyrights, trade secrets, and patents, as well as uniform logos, storefronts, and interiors.
- The opportunity to learn the latest developments and changes in the local and global market from the franchisor and focus entirely on developing the sales revenues.
- The franchisee has access to accumulated business experience and technical know-how in managing the business.
- A unified store design which leverages the business reputation in marketing the concept.

## Disadvantages of Becoming a Franchisee

Franchisees usually have an advantage over their nonfranchisee competitors, since they have the rights to use the franchisors' brand names, trademarks, copyrights, trade secrets, and patents, as well as uniform logos, storefronts, and interiors. However, sometimes the restrictions may outweigh the possible benefits. Some disadvantages include:

- Restrictions on what you can sell or how you can operate using the company's name.
- Possible prohibitions on the operation of any similar businesses during or after the terms of the franchise agreement.
- The transfer of all goodwill built in the local market to the franchisor upon expiration or termination of the franchise contract.
- The necessity of abiding by the franchisor's operating systems, standards, policies and procedures.
- Reduced corporate profit margin due to payment of royalties and levies.



## What to Consider?

Before investing in a particular franchise system, carefully consider how much money you have to invest, what type of franchise would be best for you, your abilities, and your goals. Selecting a franchise, like any other investment, is a risk. When selecting a franchise, carefully consider a number of factors, such as the demand for the products or services, likely competition, the franchisor's background, and the level of support you will receive.

**Demand-** Is there a demand for the franchisor's products or services in your community? Is the demand seasonal? For example, lawn and garden care or swimming pool maintenance may be profitable only in the spring or summer. Is there likely to be a continuing demand for the products or services in the future? Is the demand likely to be temporary, such as selling a fad food item? Does the product or service generate repeat business?

**Competition-** What is the level of competition, nationally and in your community? How many franchised and company-owned outlets does the franchisor have in your area? How many competing companies sell the same or similar products or services? Are these competing companies well-established, with wide name recognition in your community? Do they offer the same goods and services at the same or lower price?

**Your Ability to Operate the Business-** Sometimes, franchise systems fail. Will you be able to operate your outlet, even if the franchisor goes out of business? Will you need the franchisor's ongoing training, advertising, or other assistance to succeed? Will you have access to the same or other suppliers? Could you conduct the business alone if you must lay off personnel to cut costs?

## Contact an Attorney

Franchise law and agreements can be very complex and intricate. If you are interested in entering a franchise agreement, contact an experienced franchise attorney to ensure your legal rights are protected and to weigh all your options. By knowing your options, you will be able to make the best decision for you, your business, and your future.