



THE LAWRENCE[®] LETTER

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FRANCHISE LAW PART I

So You Want To Franchise Your Business?

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Louis Vouloukos

Mr. and Mrs. Singh have created a unique business: a diner that offers customizable, affordable, and healthy sandwiches, salads and soups in a trendy setting. They opened their first store in 2010 and their business concept worked. Customers often tell them they should franchise their business. The idea is very appealing to the Singhs, but they have no idea how to go about it.



Many business-minded individuals, like the Singhs in our fictitious example above, approach me about franchising their business. Some simply have a good idea and are certain that franchising is the way to go, even before they have tested their concept in an active business. Most have opened up a very successful business and have either thought of franchising themselves or been told by others that they should franchise their business.

To be successful in franchising, a number of key prerequisites must be in place.

Test and Replicate Your Business Concept

A good idea is nothing more than that. You must test your idea by opening up a business to determine if the idea translates into profitability. Running a business gives you the opportunity to develop, refine and improve your concept, an important prerequisite to franchising.

But to be successful in franchising, your concept must also be capable of replication. The Singhs have one successful location, but can they repeat that success at other locations that are under different management?

Trade-mark

The public must be able to pick you out easily from your competition. A trade-mark identifies your goods or services and shapes how they are perceived in the marketplace. Obtaining a registered trade-mark is one of the first things you should discuss with your lawyer when franchising your business. Registering a trade-mark gives you the exclusive right to use that trade-mark across Canada, even if your business operates only in a limited geographic area. Using a

business name or an unregistered trade-mark provides only minimal protection and may lead to a costly legal dispute if it turns out that someone else has the rights to a name you thought was yours.

Operations and Training Manuals

An operations manual is the backbone of every franchise system. It sets out in writing for your franchisees the fundamental details and procedures of your

proven system. It can be thought of as a “how to guide”: How do I operate the equipment? How do I hire/train staff? How do I deal with accounting and reporting requirements? How do I purchase products and from whom?

You must also properly train your franchisees if they are to be successful. After all, they are buying into a proven system because they do not want to go through the trial and error of starting a business on their own. You will need to develop a comprehensive training program, usually supplemented by a written training manual.

Legal Requirements

Franchising law is very specific, so it is essential to hire a lawyer with experience in franchise law to prepare your legal documents. In Ontario, you must provide franchisees with a disclosure document, which we’ll cover in our next article. The financial implications of not providing a proper disclosure document are devastating and could sink your franchise system.

At Lawrences, we have helped many franchisors develop their concepts into successful franchises, while avoiding costly mistakes. Call us if you are thinking of franchising your business.



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