

COUNTRY REPORT FORM

Franchising

1. Legal sources.
2. Notion of franchising contract.
 - 2.1 General notion of franchise contracts.
 - 2.2 Agreements which are covered by special rules on pre-contractual disclosure.
 - 2.3 Distinctive criteria with respect to employment contracts.
 - 2.4 Distinctive criteria with respect to distributorship contracts.
 - 2.5 Possible reference to other contracts with respect to the sale of goods (for distribution franchising contracts).
3. Pre-contractual disclosure obligations.
 - 3.1 Rules on disclosure in general.
 - 3.2 The general rules on pre-contractual liability.
 - 3.3 The rules contained in the specific statute (if any) on disclosure.
 - 3.4 Consequences of the non-respect of the rules regarding pre-contractual disclosure.
 - 3.5 Choice of law and mandatory rules on disclosure.
4. Obligation of the franchisor to test the business formula.
5. Formalities regarding the franchising contract and its modifications.
 - 5.1 Formalities required by law.
 - 5.2 Contractual requirement of written form for modifications.
 - 5.3 Specific acceptance of onerous conditions contained in non-negotiated contracts.
 - 5.4 Form requirements and applicable law.
6. Other provisions which may have an impact on franchising.
 - 6.1 Antitrust rules.
 - 6.2 Other rules.
7. The franchisee's obligation not to compete.
 - 7.1 Non competition during the contract.
 - 7.2 Post-contractual non-competition obligation.
8. Exclusivity.
 - 8.1 Rights of the franchisee in the absence of contractual rules on exclusivity.
 - 8.2 What is actually covered by exclusivity clauses?
9. Responsibility of the franchisor for acts of the franchisee.
10. Franchisor's control over the franchisee's activity.
 - 10.1 General limitations
 - 10.2 Obligation to sell from the franchised outlet.
 - 10.3 Prohibition to change the place of the outlet.
 - 10.4 Use of Internet.

- 10.5 Limitations as to the customers to whom the franchisee may sell.
- 10.6 Resale prices.
- 11. Use of the franchisor's trademarks and symbols.
 - 11.1 Use of the trademarks and symbols during the contract
 - 11.2 Obligation to cease using trademarks after contract termination.
- 12. Confidentiality.
- 13. Term and termination of the contract.
 - 13.1 Contract for a fixed period or for an indefinite period.
 - 13.2 Contract for a fixed period (without automatic renewal clause) which continues to be performed after its expiry.
 - 13.3 Termination notice (contract for an indefinite period).
 - 13.4 Form of the notice of termination and effectiveness.
 - 13.5 Earlier termination.
 - 13.6 Unjustified earlier termination.
 - 13.7 Compensation for unjustified earlier termination.
- 14. Goodwill compensation (indemnity).
- 15. Limitation of action.
- 16. Applicable law.
 - 16.1 Legal sources.
 - 16.2 Applicable law in the absence of choice.
 - 16.3 Effectiveness of a choice of law excluding the law of the franchisee's country.
- 17. Jurisdiction and enforcement of foreign judgments.
 - 17.1 Legal sources.
 - 17.2 Jurisdiction without a choice of jurisdiction clause.
 - 17.3 Effectiveness of a jurisdiction clause in favour of foreign courts.
 - 17.4 Recognition - enforcement.
- 18. Arbitration.
 - 18.1 Legal sources.
 - 18.2 Arbitrability.
 - 18.3 Arbitration clauses.
 - 18.4 Recognition of foreign awards.