



International Distribution Institute

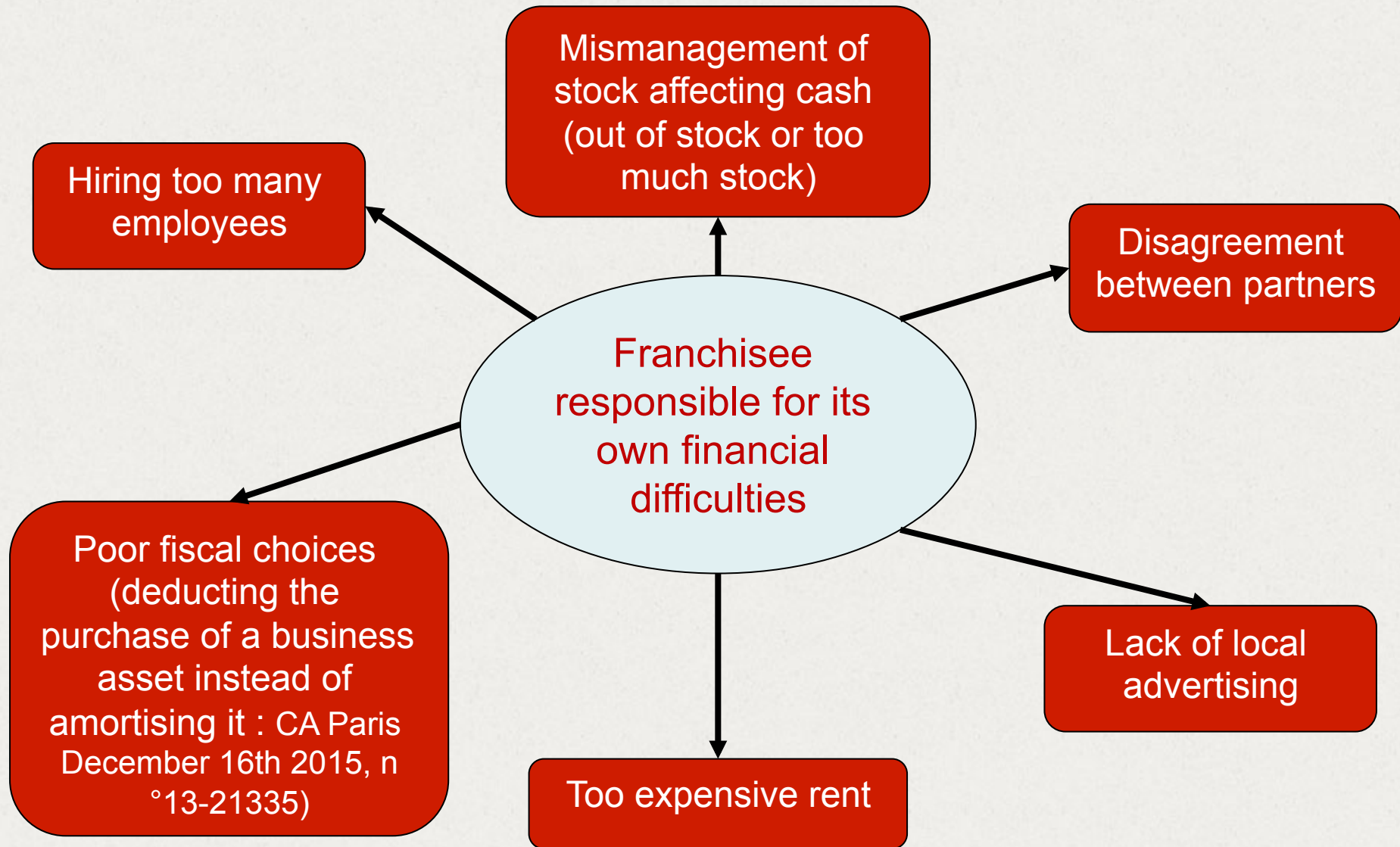
*Facing insolvency of the
franchisee during the
contractual relationship*

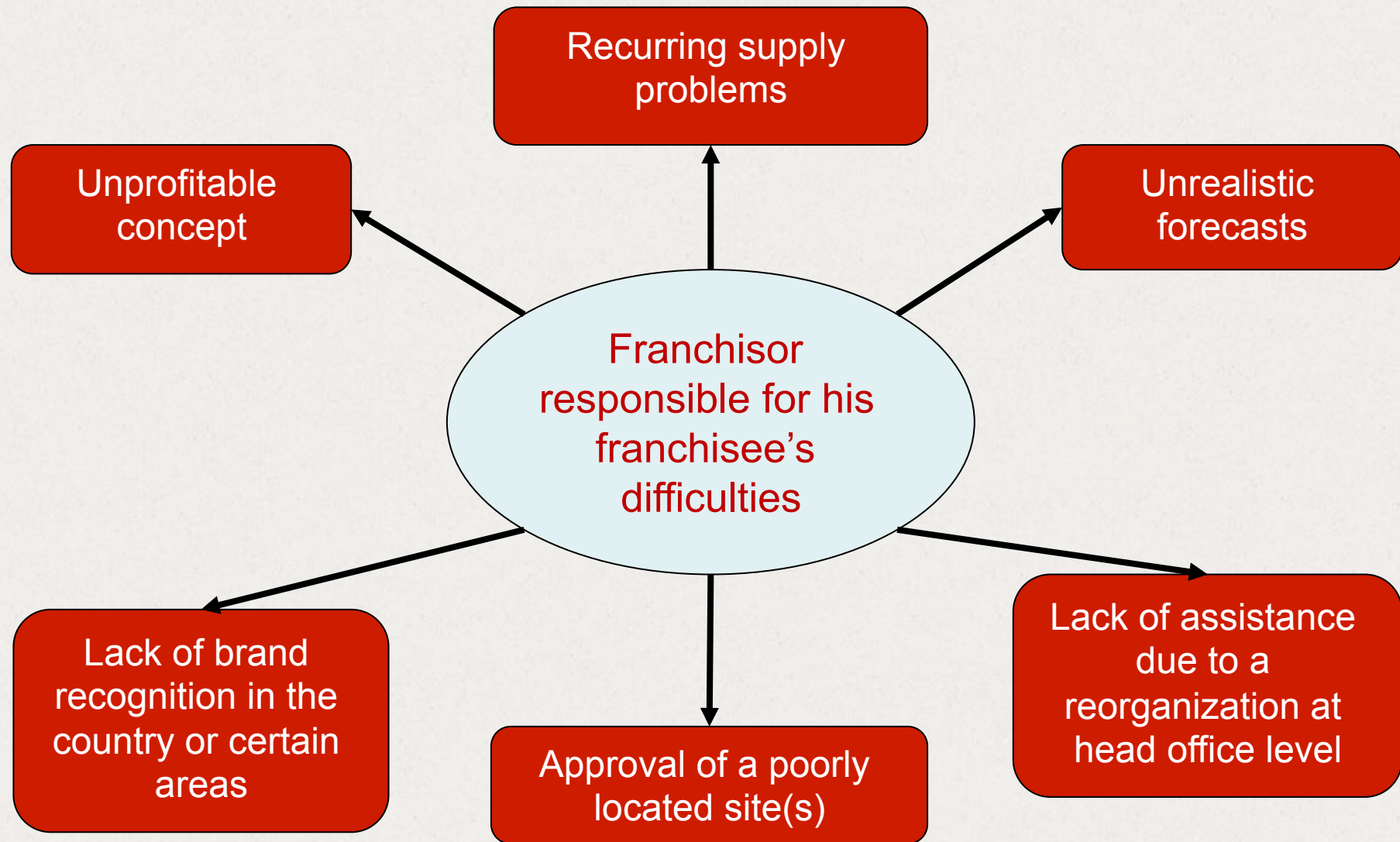
Christophe GRISON

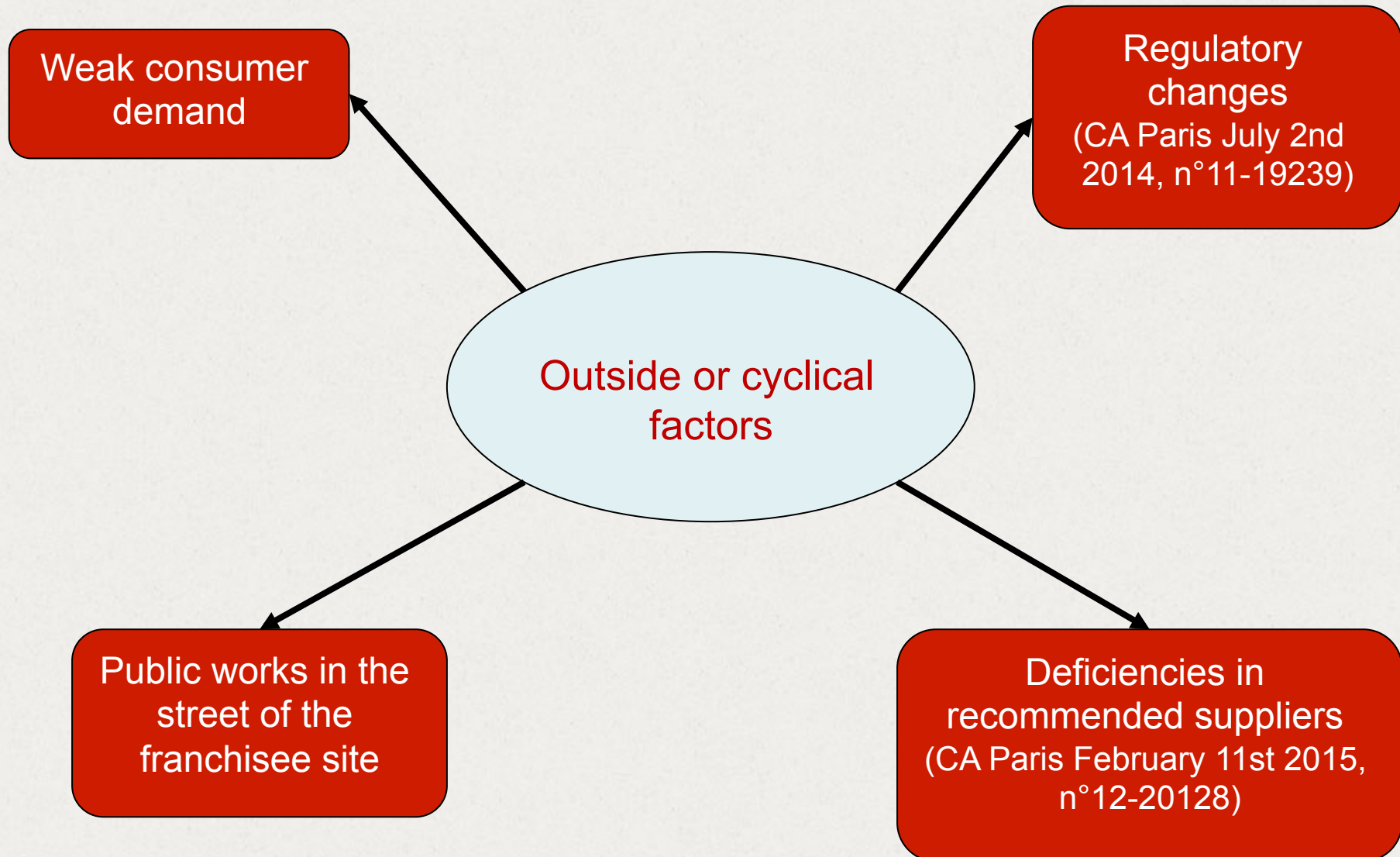
Legal Counsel

French Franchise Federation (FFF)

1 – What are the possible causes of the franchisee financial distress ?







II – Does the franchise relationship impose the obligation for the franchisor to provide financial assistance to its distressed franchisees ?

Conversely, may the franchisor refuse to provide assistance without liability? And if so, under what conditions?

- CA Toulouse, October 14th 2015, n°13-00325.
- French Supreme Court, Commercial Chamber, January 7th 2014, n°12-17154.
- CA Limoges November 5th 2015, n°13-01241

*III a – May the franchisor change payment terms and/or conditions of delivery of goods – and even stop their delivery ?
And if so, under what conditions?*

- CA Paris January 14th 2009, n°06-21721.
- CA Paris May 7th 2014, n°12-04794

III b – Could the franchisor be liable towards a franchisee for failure of a franchisor-approved supplier ?

- CA Paris February 11st 2015, n°12-20128.

IV – The European Code of Ethics for Franchising provides that the franchisor must provide commercial and technical assistance to its franchisees.

However, the franchisee could argue that its financial difficulties are due to the franchisor's lack of assistance.

Under what conditions could the franchisor be liable in this case?

- CA Paris January 20th 2016, n°13-10459
- CA Paris December 16th 2015, n°13-20186 and 13-21335
- CA Paris December 17th 2014, n°13-08615
- CA Paris July 2nd 2014 n° 11-19239
- CA Paris May 7th 2014 n°12-04794

V – Sometimes, the franchisor assistance is not sufficient to avoid the bankruptcy of the franchisee.

*Consequently, in insolvency proceedings, what are the legal risks for a franchisor ?
Could a franchisor be liable because of its financial assistance ?*

- CA Chambéry June 17th 2014 n°13-02671
- French Supreme Court, Commercial Chamber, September 23rd 2014, n°12-35120



VI – The franchisor may also choose to terminate the franchise agreement, whether or not he provided assistance to his franchisee previously.

What does he risk legally by doing so ?

VII – Mediation, an excellent means to find an amicable settlement, particularly in the event of a franchisee in financial difficulties ?



<http://www.franchise-fff.com/fff/mediation-franchiseur-franchise.html>



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Facing insolvency of the franchisee during the contractual relationship

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