Discussion Panel: Enforcing personal guarantees in franchise relationships

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The Panel

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Types of Guarantees

Avoid treating “personal guarantees” as one concept:

- Personal guarantees (individual liability)
- Bank guarantees / letters of credit
- Mortgages / asset-based security
- Comfort letters
- Corporate guarantees

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Reasons to have a Personal Guarantee

- Financial security
- Non-Competes
- Non-disclosure
- Deterrent to bankruptcy
- Psychological pressure

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Limitations & Risk

- Unlimited vs limited
- Ways to limit
- Practical constraints

- How do PGs contribute to the risk allocation in franchising
- Is franchising inherently imbalanced?
- Is the potential upside benefit of an unlimited guarantee outweighed by the "David vs. Goliath" story a failing franchisee is going to tell?

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Key takeaways

- Personal guarantees are common but often misunderstood
- Leverage or remedy?
- Local expertise & venue
- Enforcement and practical issues
- Avoid standardisation

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