Franchising into the U.S. from Abroad

Although it is one of the most lucrative franchise markets, relatively few franchisors from outside the U.S. have yet franchised their businesses here. Franchisors often report that their reluctance to come here is based upon myths about the difficulty of complying with various state and federal franchise laws, the risk of litigation from unhappy franchisees, and the high cost of getting started in a competitive market. Changes to the Federal Trade Commission Franchising Rule now make it possible for foreign franchisors to negotiate with prospective U.S. franchisees (in most states) without having to incur the expense of preparing a U.S. franchise agreement and Franchise Disclosure Document.

We guide prospective U.S. franchisors in determining where to offer franchises, franchise structures (master franchising, area development franchising, or unit franchising) which make the most sense for their concepts, and how to cost effectively navigate the requirements of franchise sales laws. We often work with our client's franchise lawyers and consultants to develop the U.S. version of a company's franchise program. Because most states do not regulate the sale of franchises, we can help franchisors design franchise programs without incurring the costs and time delays associated with obtaining franchise registrations. When state franchise registrations are required, we help our clients to prepare a single form of disclosure document which (with some state addenda) can be used to satisfy disclosure requirements in all states.

We prepare franchise documents and provide franchise law compliance programs to minimize the likelihood of franchisee disputes and litigation. Only a few franchisors who enter the market and follow our advice are involved in litigation with franchisees.

Our Experience

- Help franchisors structure franchise programs to suit the U.S. legal and business environment
- Help franchisors understand how to sell franchises without making unlawful financial performance representations and without inadvertently offering franchises in states which require franchise registrations
- Prepare and negotiate all forms of franchise agreements, obtain franchise registrations, and negotiate standard lease agreements with landlords
- Register and protect trademarks and domain names and advise about the protection of trade secrets
- Introduce franchisors to U.S.-based professional service providers who can facilitate the introduction of a franchise concept into the U.S.
- Establish business entities, raise capital, and tax planning

Representative Matters

- Advised a Brazilian restaurant franchisor in the development of its U.S. franchising program
- Advised a Brazilian kitchen cabinet manufacturer and retailer about the establishment of operations in the U.S. and negotiated the sale of the company's pilot unit to the company's U.S. manager
- Advised a French beauty clinic franchise in establishing a joint venture with an American entity to test the concept in the U.S. and ultimately to roll out the franchise program
- Helped a U.K. franchisor of consulting services structure a master franchise program in the U.S. while minimizing the franchise sales compliance burden
- Negotiated with a Swedish children's clothing retailer about the establishment of a U.S. master franchise giving the franchisee the rights to sell clothing in the U.S. through the internet
- Advised a Venezuelan "big box" pharmacy in the establishment of its U.S. franchise expansion plan
- Obtained judgments against former nonpaying franchisees of a Brazilian company and obtained injunctions to prohibit post termination competition
- Helped Canadian restaurant franchisors modify their franchise programs for use in the U.S.