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What is Franchising?

What is franchising and what other options are available to those wishing to expand or run their own business?

The term 'franchise' is often used to describe a 'dealership'. Motor dealers frequently refer to 'having a franchise' when describing their authority to sell a particular brand of vehicle.

But when most people think of a franchise what they have in mind is a McDonalds or a 'man and a van' franchise such as ChipsAway. In other words, what is known as 'business format franchising'.

That expression has been coined to describe the arrangement whereby a person (a 'franchisor') grants to another (a 'franchisee') a licence to operate a business using the franchisor's trading name, trade marks, know-how and business system. Essentially, the franchisee is provided with a package that enables a person who has no previous training in the business to operate that business.

The franchisor will usually, as part of that package, provide start up and on-going support and assistance. It is in the franchisor's best interest to do so as he will want to ensure that the franchisee's business is successful giving both parties a financial return and, in turn, building the value in the franchisor's brand.

The high streets of most UK towns are littered with well-known franchises. Aside from those already mentioned, Cash Converters, Clarks Shoes, Domino's Pizza, Kall Kwik, Thomtons and Subway are all examples of successful franchise operations. But franchising is not confined to retail and fast food - many other businesses such as Stagecoach, Dyno-Rod, etyres, Snap-on Tools and Tumble Tots are franchises.

The key is a business that is 'tried and tested' and which is easily replicable. In exchange for payment to the franchisor of an initial franchise fee and (usually) on-going royalty or other payments, the franchisee gets the benefit of a proven business brand and system, the know-how to operate it and the support needed to run a successful business. The franchise clearly needs to be capable of realising sufficient profit for both franchisee and franchisor. Successful franchisees will often run multiple franchise outlets.

Whether you are looking to franchise your business or to become a franchisee, sound, early advice from reputable franchise consultants, banks and solicitors is essential. But, you must ensure that you select reputable advisors who possess a good knowledge of the franchise sector. The British Franchise Association (bfa) is a good source of information and identifies bfa-affiliated professional advisers.

In many ways, franchising is a 'turn-key' business solution. But other possibilities exist if you do not want to start a business entirely from scratch. There's the so-called 'business-in-a-box' which again enables a person with no prior experience to operate a business. In that instance, there may or may not be a brand name associated with the business and there may or may not be adequate support.

Many businesses operate on the basis of a licence from one party to another – this is similar in many respects to a franchise (which is also a form of licence) but, with a licence arrangement, the party granting the licence is unlikely to provide the same degree of support as a franchisor.

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Rawlison Butler LLP's commercial law practice is experienced in advising franchisors and franchisees, and is an Affiliate member of the bfa. Mark O'Shea is Commerce & Technology Partner and Head of Franchising.

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