

## Documentation and Management of Franchise Systems

Imagine inaugural 20 newborn playing locations without having to foot the bill for actual estate, equipment and utilization costs or attractive on some of the risk. Even more, envisage uncovering managers to separate every those locations, who are just as committed to ontogeny the consort as you, and you don't have to pay them a dime. Finally, envisage that these managers module hire, fire and curb every employees as substantially as foot the bill for every operative costs and expenses. Sound far-fetched?

Not if you're thinking to enter the concern industry, one of the fastest structure to grow a small playing without breaking the bank. For some companies, franchising a playing (or licensing) is a sensible way to achieve rapid, juicy growth without gift up some curb or ownership. Going from a azygos location to a dozen in a couple years, or a hundred in decade eld is doable and well-documented because concern owner-investors put up every investment capital, shoulder every risk and assume every day-to-day operative responsibilities.

It's expansion, using OPM — Other People's Money. Also, the concern consort gets paid handsomely for teaching others the secrets of how to control its business. First, there's the up-front "membership" or concern fee of \$20,000 to \$50,000 paid for using the brand name and operative methods. In addition, there are continuing royalties of 5% to 10% of gross income for ongoing advice and consultation. In essence, a concern utilization program allows a consort to intend out of the trenches and become a highly-paid general overseeing its soldiers. Long-term options are also attractive. Build an corp and relax, or let the concern consort be acquired by an increasing number of super companies that countenance for small, but ontogeny concern companies. According to the International Franchise Association, 900 newborn companies have franchised in the last threesome years.

**ENTERING A NEW BUSINESS** A consort thinking to concern staleness realize it is entering a newborn business, offering an entirely assorted service (training & support) to entirely newborn customers (business owner-operators). This newborn playing requires assorted skills, abilities and expertise. In the newborn playing of franchising, it is grave to amend trenchant evaluation, documentation, mentoring, upbringing and consulting skills. Since these newborn skills are rarely inform within existing personnel, an outside concern proficient is needed to train existing organisation and organisation the transition. The prototypal travel involves determining whether or not a playing crapper franchise, and if so, what needs to be developed. Next, strategic concern thinking is needed to create a "blueprint" for flourishing expansion efforts. Experience shows that, just like a building, the foundation matured at the beginning module create lasting consequences affecting the relative success (or failure) of the whole venture. Legal (franchise revealing document, concern agreements) and effective documents (franchise dealings manual, concern upbringing program) are prepared and drafted and finally a concern registration impact is required in whatever 14 states, depending on which state(s) the consort sells franchises. These phases are discussed below.

**THE FRANCHISE FEASIBILITY PHASE** An indispensable travel before some concern utilization program gets underway is an psychotherapy of the construct and playing model. Has the construct been sufficiently proven in the marketplace? How juicy are existing prototypes or company-owned outlets? Franchising module not solve existing problems, it module exclusive intensify them — and usually at a serious outlay to concern investors. Franchising should not be viewed as a method to raise capital, modify a playing that has existing problems, or a way to intend rich quickly. There staleness be sufficient profitability in the playing help so that royalty and another payments crapper be prefabricated and yield the concern investor with a sufficient profit. With a concern practicableness analysis, a determination crapper be prefabricated about:

(a) whether franchising or licensing expansion ideas should be pursued, postponed or abandoned; and (b) forward a constructive result in (a), what needs to be fine-tuned or matured from scratch for the concern program.

Besides determining if and when the playing crapper franchise, the psychotherapy should also allow providing guidance and direction so as much of the groundwork as doable crapper be done by existing personnel. This has proven to be a very trenchant move and significantly reduces concern utilization costs. If the practicableness psychotherapy is positive, the another phases discussed beneath follow. My twenty-eight eld of experience in the concern playing lets me deal a priceless brainwave most concern practicableness studies. Too some companies leap into franchising without doing a practicableness study, or if one is done it is performed by a concern consultant or group that tells everyone good news — they're every "franchise-able." The vast eld of concern practicableness studies I've done either refer areas that need tending before franchising makes some significance or tell the computer to block most it and oppose another options.

**THE FRANCHISE STRATEGIC PLANNING PHASE** A flourishing concern utilization program begins with a solid organisation — a foundation for franchising. The long-term content is to establish balanced, integrated, flourishing playing relationships with qualified individuals who hold the company's goals and image. Creating an lasting relation requires a broad strategy that addresses every aspects of the concern endeavor.

The play saucer is a careful psychotherapy that covers:

- (1) identifying profile characteristics of who module be the prizewinning concern owners for the particular business;
- (2) combative orientating to attain the concern stand out from the another 3,000+ concern companies;
- (3) TRUE scope &ndash; where and when module franchises be sold;
- (4) psychotherapy of the company&rsquo;s organizational strengths and weaknesses relative to franchising;
- (5) identifying the pertinent concern organizational structure as substantially as staffing requirements and responsibilities; and
- (6) structuring the concern relation for a balanced, win-win scenario.

What should emerge from this careful psychotherapy is a limited strategic organisation and framework for guiding virtually every concern efforts. Despite the long-term importance of the concern thinking step, too some emerging concern companies enter franchising with no organisation or thinking &ndash; another than &ldquo;let&rsquo;s try and sell a lot of franchises.&rdquo; They festinate through (or neglect entirely) the strategic thinking process, thereby creating forthcoming concern proceedings land mines that are sound concern lawsuits inactivity to happen.

Often, this is because they exclusive utilize the services of a concern consulting concern or concern attorney, where little or no tending is paid to grave strategic planning, effective and organizational issues. Normally, these firms draft &ldquo;boilerplate&rdquo; concern revealing documents, concern agreements and concern dealings manuals supported on a questionnaire completed by their client, who is presumed to have prefabricated every strategic decisions. The concern documents are presented, along with an invoice and a handshake &ndash; hardly the ingredients for success in the newborn playing of franchising.

**THE FRANCHISE DOCUMENTATION PHASE** If the consort has prefabricated doing a good job at the thinking initiate the number one priority, concern substantiation goals module be apparent. Proprietary and intellectual construct assets (like operative techniques, customer information, recipes, formulas and methods) need to be identified and protected. A trade secret endorsement program is matured and implemented. The name, logo and attach lines should have been previously qualified as trademarks or service marks.

franchise dealings manuals Franchise dealings manuals and upbringing programs are developed, oftentimes from scratch, to contribute playing operative skills to the concern owner as substantially as secure uniformity of products and services. The concern dealings drill and upbringing program curriculum staleness be drafted with a particular focus. Certain topics, chapters and policies found in manuals for a company-owned chain, for example, are entirely incongruous in a concern environment, creating momentous badness (lawsuit) issues for the concern division.

I routinely find concern dealings manuals drafted by concern consultants or do-it-yourself drill kitscontaining incongruous chapters or topics. Not knowing where the bullets come from in concern litigation, they proceed blindly aweigh using &ldquo;boilerplate&rdquo; manuals where most (but not all) instances of &ldquo;hamburgers&rdquo; are denaturalized to &ldquo;tax returns.&rdquo; The hold aspect of the concern relation needs to be carefully considered, structured and echolike in the concern dealings manuals.

Deciding who writes the concern dealings drill is a relatively simple discourse to answer, yet some newborn concern companies also fall into a hole here. Bewildered by the newborn playing of franchising, with its jural requirements, concern dealings manuals, upbringing programs, etc., they decide to &ldquo;delegate responsibility,&rdquo; usually to a high-priced concern consultant who produces the dealings drill and sometimes modify the jural documents. Putting aside the practicing law without a license issue on the jural documents, does using someone to indite your concern dealings drill who knows literally nothing most your business, ever attain some sense?

The prizewinning practice approach, matured over almost threesome decades of my writing, redaction and reviewing hundreds of concern dealings manuals is supported on common sense. Let the genuine &ldquo;expert&rdquo; in your playing indite the dealings manual. And who is that expert? It&rsquo;s usually the originator of the playing or a handful of your direction organisation who know the playing exclusive and out. It&rsquo;s true, an outside concern proficient should be involved in the process, but this should be limited strictly to a thinking and redaction power &ndash; serving amend the overall Table of Contents, gift samples of composition styles and technicques, then reviewing each chapter after it&rsquo;s drafted by you or your direction team. This move produces a professional, easy to ingest and update concern dealings manual. It also ensures the most economical ingest of resources and talent.

franchise revealing documents Finally, and exclusive after every of the above are underway, a Franchise Disclosure Document, kindred to a securities (stock offering) prospectus, is prepared by effective concern counsel and qualified with different regulatory agencies to comply with applicable federal and land laws. This document crapper contain thousands

of discrete disclosures within its twenty-three chapters and attached exhibits, and obviously needs to be prepared by a concern attorney. Doing it properly and with a balanced and fair perspective crapper help keep the consort out of the room later. In addition, a concern registration impact is required before some franchises crapper be advertised or oversubscribed in those 14 or so states having a concern registration requirement. Having one concern author, edit and analyse every documents is not exclusive cost-effective &ndash; it also avoids inconsistencies that crapper plague the concern consort as concern jural pitfalls in the forthcoming (see communicating below).

**RECOMMENDATIONS** My twenty-eight eld of experience has demonstrated that in visit for a concern consort to intend off to a good start, a onerous emphasis should be placed on strategic concern thinking to curb forthcoming concern relationships as discussed above. Then, before the concern program begins, direction needs upbringing in how to effectively control a concern organization. At a minimum, the following programs should be in place before concern marketing efforts begin:

1. Franchise Lead Processing System (sm): Two key considerations for every concern companies engaged in concern marketing are the careful screening of concern applicants and adopting the proper media plan, schedule and budget. Only the toiletries of the crop should be allowed to join the concern network. Eliminating applicants at the entry initiate is far easier than inactivity for fateful and costly problems after on. An examination of concern networks plagued by troublesome concern owners (who ofttimes alter into forthcoming lawsuits) shows a demand of thinking and tending to this relatively simple concept. Given the unlimited individualized badness risk inherent in franchising, companies neglecting this important concept, or those using concern brokers, are simply asking for trouble.

Before concern marketing efforts start, a consort should take a bespoke Franchise Lead Processing System that includes instructing key organisation in:

- (1) adopting the proper organizational structure;
- (2) process the pertinent profile characteristics of likely concern owners;
- (3) nonindustrial trenchant interviewing techniques, marketing materials, procedures and checklists;
- (4) using a series of tests and another measures to secure that incongruous candidates are disqualified before joining the concern network;
- (5) detecting (and then avoiding) red flags that arise in the concern marketing cycle; and
- (6) adopting the pertinent media plan, schedule and budget.

2. Legal Compliance Program (sm): A concern causa crapper result if inconsistent or dishonorable subject occur when a concern is prototypal sold. Most of the jural risk is franchising centers around what happens during the marketing cycle: the twenty-three chapters of disclosures in the concern revealing document as substantially as who said what, and when. Defending some concern lawsuit, modify a frivolous one, crapper be enormous. Franchise companies involved in concern proceedings are shocked to discover they have fallen into a quicksand that swallows up time and money without limit. The outlay of prosecuting or defending modify a &ldquo;small&rdquo; concern causa crapper apace exceed \$100,000, and up. Exposure crapper separate into the millions. Although one study of concern revealing documents indicated 27 percent of concern companies have a history of concern proceedings (slightly greater than 1 in 4), the actual percentage is much greater and probably north of 50 percent. This is because exclusive pending proceedings and final judgments staleness be unconcealed in concern revealing documents. Most concern proceedings cases, like another proceedings cases are settled, so they&rsquo;re exclusive required to be in the concern revealing document from the time they&rsquo;re filed until settled. After that, they vanish without a trace. And whether the chances of effort sued in a concern causa and effort embroiled in concern proceedings is greater than 1 in 2 or 1 in 4, who wants to intend involved in a time-consuming, stressful and expensive mess?

It is almost impossible to refrain possibleness concern badness unless a genuine program of activity and instruction is conducted with marketing organisation as substantially as region and chief concern management. An integrated Disclosure Compliance Program that specifies rules and expectations (including jural rules in selling a franchise), manages concern revealing documents and controls the dissemination of every information is absolutely essential. It is also one of the prizewinning investments a concern consort module ever make. For every of the above reasons, the ingest of concern brokers is definitely NOT recommended. Their statements (or another actions) prefabricated to &ldquo;close the deal&rdquo; module attain the concern methodicalness (and the individualized assets of its officers) liable for violations of federal or land concern laws. This also explains why the overwhelming eld of flourishing concern organizations set up their possess in-house concern marketing department so that actions and statements prefabricated during the concern marketing cycle crapper be monitored and controlled within the framework of a Franchise Sales Control System (sm).

3. Franchise Sales Control System (sm): Franchise Sales Control is the another half of the whole deference equation.

While legal deference specifies rules and expectations, concern income curb is the mechanism for detecting gaps and inconsistencies. When detected, their causes can be identified and corrected before injuring the concern effort. A Franchise Sales Control System should be designed with this in mind, and should allow a variety of feedback mechanisms to guardian performance and retrieve pertinent information for analysis by management. This not exclusive increases the power of concern marketing efforts — it also greatly reduces the likelihood that income organisation module deviate from ingrained procedures in selling franchises. Finally, a well-designed Franchise Sales Control System creates a complete back up file for every concern oversubscribed that module qualify as playing record evidence in the circumstance of a forthcoming concern dispute. It also satisfies the legal responsibility of different states that concern companies maintain a complete set of books, records and accounts of concern sales. Since most of the legal risk in franchising arises during the concern marketing cycle, a broad Franchise Sales Control System is the company's prizewinning endorsement against the quicksand of concern litigation.

4. Managing Franchise Relations: As franchises are sold, the act lines that amend between the parties module have a major impact on the success or failure of the ongoing concern relationship. Controlling who is brought into the meshwork through the steps distinct above is the grave prototypal step. Once exclusive the concern network, concern owners staleness be taught to realize they are members of a system of mutually dependent outlets, each working for the better of the whole network. Developing an awareness of this construct primeval in the relation and implementing a concern feedback system module create a constructive attitude, encourage original ideas from concern owners, secure timely royalty payments and prevent concern relation problems after on.