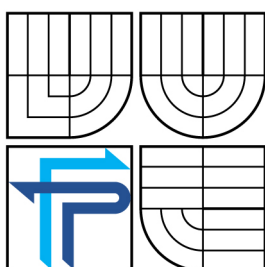


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FACULTY OF BUSINESS AND MANAGEMENT
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IMPORT OF FRANCHASING CONCEPTS ONTO THE CZECH MARKET

IMPORT FRANCHISINGOVÝCH KONCEPTŮ NA ČESKÝ TRH

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Abstrakt

Diplomová práce se zabývá popisem a rozbohem Franchisingu, jako možnosti investice bez většího kapitálového obnosu. Práce se orientuje na nově vstupující společnosti na český trh, a jejich možnosti financování. Práce analyzuje současnou situaci nabídek a možnosti investování do nových konceptů.

Klíčová slova

franchising, franchisingový koncept, financování, import, marketing a propagace, podmínky

Abstract

This master's thesis deals with the description and the analysis of Franchising as the option of an investment without the need of a higher amount of capital. This thesis is focusing on the new incoming companies onto the Czech market and possibilities of their financing. This thesis analyses the current situation offers and possibilities of investing into new concepts.

Key words

Franchising, Franchising concept, financing, import, marketing and promotion, conditions

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Čestné prohlášení

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INTRODUCTION

Nowadays the trend among companies is that there is a bit rivalry on the market. Many companies are still in temptation not to invest that much due to the unstable economic situation. The Franchise market is the upcoming trend and many even small producer or sellers choose this choice to spread their business among their region or even entire country. This thesis is describing the current situation on the Czech market and is showing the process of entry of new concepts. The evaluation of potential franchisees is described together with the evaluation of criteria from the financial side and other factors that need to be critically evaluated.

The criteria for entry have to be evaluated from two sides. One side is that whether the market is ready for such a concept and if the potential franchisee is ready and capable. A satisfied project for both sides is a project that is successfully implemented on the market and is generating success and profit that is suitable for both sides. Also the thesis will consider the establishment of a franchisor in the entered country or the possibility of only providing the market from abroad by “only” having franchisees.

THE AIM OF THE DIPLOMA THESIS

The aim of this thesis is to evaluate the criteria of an entry of a franchise concept focusing on the demonstration and possibilities of “free” concepts. I would like to manage this issue by using materials of companies that are interested in the Czech market and can be successful using either a franchisor method or directly a franchisee in our country. This will be done firstly from the theoretical side and secondly by evaluating the possibilities and outputs from analyzing all concepts getting to the result of having profit generating concepts that are available for the potential investment. Critically focusing will be this thesis on the potential “takers” of concepts.

2. THEORETICAL OUTPUTS OF THE THESIS

2.1. History of Franchising

Franchising can be described as one of the most effective marketing tools for the dissemination of products or services. The word "franchise" comes from French, which in the Middle Ages indicated the exemption from customs duties and taxes. Later this term was referred to the privileges which the king awarded the right to manufacture products or traded within a defined territory. As a business method arises in the 19th and 20 century in the U.S. The very essence of this system is granting of exclusive rights or certain privileges, which could very well use products distributors who have obtained exclusive rights to sell products a particular territory.(1)

First, this method of sale was used to distribute sewing machines and cars. The development of franchising was always after the world wars, when companies came to the conclusion that franchising leads to a better introduction of the brand, easier and faster distribution and thus to higher profits. Franchising most spread in the USA, where it began to use franchising as a delivery of system of quality customer service. In the field of sales franchising was able to solve the problem of the fight of small business versus large corporations. Thanks to franchising even a small businessman could run business under the name and image of the large company. It turned out that small firms can have a modern market instead of the economy that they can succeed if they operate in very close specified business. However, if they are on a relevant business market, where big companies started to operate as according to my opinion there is a lower chance of survival when acting as a individual and as a part of a small chain. Their salvation may become franchising in the way to enable them to belong to a network of distributors falling under a business name, or acting under one brand. This will allow these entrepreneurs and its suppliers to act as a strong partner and to exert pressure on their suppliers regarding delivery conditions and

purchase prices. With this process they are able to purchase goods and services far more cheaply than if negotiated separately.

2.1.1. Definitions

In this section are included interpretations of the concepts and terms that relate to franchising and with which the author will work with below:

- Franchising - sales system through which the goods and services are introduced on the market
- Franchise - a license that gives the Franchisee the right to operate Franchisor's sales concept for own account
- Franchisor - Provider of a franchise / license
- Franchisee - acquirer of a franchise / license
- Franchise Network - organizational link of a franchisor and all its franchisees
- Master-franchising - franchising over the territory of one State
- Master Franchise - license for the entire country

Thus, all relevant terms are defined by the Czech franchising Association (2008). In the literature about franchising, we can bump into other terms such as a license holder rather than a term franchisee. According to some authors the licensing and franchising business relationship describes two different things, but in this work curfew will be primarily on the views of Martin Mendelsohn (1979), that these expressions are considered as an equivalent. In the text is often named the franchisor by the headquarters, as this name well describes his position in the chain and the term is widely used in practice. In some publications Czech synonyms expressions are used as an example "Frančíza" "frančisink" and others. The author of this work prefers the form used in the Definitions.

2.1.2. Company Theory

Before there will be made a more detailed introduction to franchising, it is appropriate to become familiar with the term "company" and its import onto the Czech market, which is the subject of this work and it is clearly very important.

The company is an institution that coordinates profit conversion of inputs to outputs. (4) It is essential that the company is only a part of what takes the part in this conversion right inside the company, i.e., hiring staff and purchasing machines. On the contrary, if from any entity we are taking a payment for drawn components, which the first mentioned company also used for production or just resells them, then the contractor is considered as another independent company, not as a part of the first. (9)

The company is a business entity usually is classified into one of the following three forms that are determined by the ownership structure:

- A separate business, one person owns and manages the whole business.
- Partnership, a company jointly owned and controlled by two or more persons.
- The corporation, from the previous two types is notably different and the ownership structure and the associated liability for any losses. Corporations are owned by shareholders, the decline in the company risks losing only to the extent a sum paid for the purchase of shares that can transform the bankruptcy into worthless. In contrast, the previously mentioned individual entrepreneurs and partners shall be liable for loss of an company and its property. (5)

The above mentioned list shows that only the first type of company has the owner a complete overview over the operations of the company. In the other two types has the owner no absolute control. If the partnership is only responsible for a certain activity in the company then therefore does not have a perfect overview of the activities of the partner or partners. If it is a Corporation, then the company control of the shareholders is nearly impossible and is only influencing the composition of the Supervisory Board and Board of Directors and sometimes not even that. (5)

With the operation of companies that are not owned and directly managed by the same person, closely relates the principal-agent relationship, i.e. the owner-manager. The essence

of the problem first lies in the fact that managers do not always have the same interests as owners and secondly, that the managers are not always able to effectively control. This inability to perfectly monitor the work of employees creates a space for moral hazard. It primarily means that employees may have a tendency to act to unethical ways to increase your benefits, especially at the expense of the employer, or owner. (5) The question is how this risk of moral hazard is faced. For example, Andrew Shotter (5) suggests several ways to appropriately arrange the principal-agent relationship and minimizing the risks. A variant, as already mentioned, is franchising. This allows from the company to set aside quite a part in which this could lead to moral hazard. It is about creating a separate business unit, which is no longer a part of the original company and without mentioning the principal-agent relationship.

Describing the theory of the firm it is important to mention the position you may have according to different firms in the market. This is mainly about whether they operate in an environment of monopoly, oligopoly, perfect competition or monopolistic competition. Given all the facts that Franchise companies are taking the position that is described before as a monopolistic competition a special attention has to be faced to these market arrangements.

2.2. Franchising Contract

Though this agreement is a key element of hundreds of Czech companies, not in Czech law is described that it is a general agreement between the two business entities with no particulars prescribed. This document shows the range of signs of contract types, such as the purchase contract, lease or trade of representation. The result is a document corresponding to the specific needs of the franchise model.

(Czech Franchise Association, 2008)

This contract is primarily regulated by the Franchisee to Franchisor relationship, but also to third parties. Depending on the type of business it can greatly modify the content and

concreteness of contracts covered areas. The points below are the minimum that should be a part of such contract:

1. Principles of accession to the system.
2. Franchisee permission to use property rights to intellectual property of the Franchisor. This mainly concerns trademarks, know-how, rights of patents.
3. Duration of the contract, usually on a temporary basis.
4. Obligations of the licensor. This is mainly a general advice to the training of workers, subcontractors, marketing, security product development, etc.
5. Obligations of the licensee. This is mainly about the compliance and standards created by the franchisor.
6. Possibility of withdrawal.
7. The amount and payment system of marketing and licensing fees.
8. Control mechanisms of the franchisor.
9. Relation to the competition.
10. Franchisee's right to inspect the accounts.
11. Operations manual that describes in sufficient details everything you need to operate of the business. (5); (Czech Franchise Association, 2008)

With franchising, many associated advantages and disadvantages are discussed in the next section. Some negatives, or rather the possible causes of conflict between the two parties, but arising from the franchise agreements. One of the common causes of disagreement is related to the treatment of suppliers of raw materials, material or machinery. It is normal for the franchisor in order to achieve uniformity of the final products in all operations, franchisee agrees to receive such materials from the same predetermined vendor. In this case the supplier is not fully exposed to the competitive environment and are not guaranteed for Franchisees as the best possible conditions, both price and quality. Franchisor in this situation can argue that it is due to their greater economic power to be able to exert pressure on the suppliers, which leads to obtaining better terms than it should for the Franchisees when all of this is acted separately. In some cases is the franchisor

supplier himself who provides to his own Network of Franchisees products of his own. In such situations can the Franchisees become hostages in the way of their franchisor which is forcing them his products (4). We cannot exclude that the franchisor's franchisees are taking orders of raw materials from a particular vendor, which he ultimately pays the commission of interpretation.

Another situation that could cause a conflict of opinions occurs if a license holder also purchased a license that does not want to be used and because of the invested costs he is trying to sell the license. In such situations, the headquarters due is to guarantee the smooth running of the establishment and usually reserves the right to choose a new franchisee. It is often that a part of the franchise agreement is a clause which stipulates that the purchase price will be in such cases established by the franchisor. This basic interference with property franchisee rights, which inevitably leads to conflict, is usually the justification that the franchisor has more experience and knowledge and is therefore able to appreciate the enterprise better than sellers than buyers especially license agreements. Also in the interest of the licensor is that the new franchisee has not paid a disproportionately high amount when entering the chain so he can possibly invest in the company and contribute to its development.

2.2.1. Advantages of the Franchisee

Franchising offers many advantages to the licensee and the most common are listed in this chapter and others below.

Franchising is a considerable simplification of a start of a business. License contract permits the purchaser to own and operate a private company, without the need to come up with my "business idea". A Franchisee does not have to build a brand name, but his business can take the advantage associated with an established name of the Franchisor including the reputation. Thanks to the cooperation with the licensor the cost of opening a business for the Franchisee is often lower than acting completely separately.

This cost reduction is achieved mainly due to the size of the chain standing behind the franchisor, which is then capable of supplying companies to achieve better conditions, because there is an important trading partner. A Franchisor would also be able to provide the new holder of such license training that will allow the management to do this training without a specific knowledge of the field. Therefore, if someone wants to become an entrepreneur, franchising is not the case where a person would be limited only by the field which he knows. In addition the franchisor will help him with many prior investment matters and it is mainly about the site selection, preparation of plans for managing the store space, obtaining the necessary financial environment, purchasing equipment and raw materials etc.

Franchisor is also committed to the rule that the license will not be provided as a way which would evoked among beneficiaries a competition. It is therefore especially a geographically divided market. Franchisee, which shall enter into the industry can benefit from the experience of the franchisor and its trained staff and can use franchisors patents and registered trademarks. The biggest positive for the Franchisee is that on one hand it can benefit from all these advantages that are belonging rather to large business, but maintaining at the same time the freedom and freedom of independent entrepreneurs.(2) (5)

2.2.2. Disadvantages of the Franchisee

For the franchisee are however from the contractual bond with the franchisor not only benefits. Most of the disadvantages are coming strong interdependence between the parties. Although the franchisee is the owner of his company, still the franchisor holds over him a considerable control.

The license holder is on one hand benefiting from the experience of the franchisor, but must also comply with many rules and regulations set by the headquarters. If the specified standards are not respected it could undermine the reputation of the entire chain. Therefore,

a provider of franchise retains the right to withdraw the license if the franchisee is not deviated from the designated standards or has stopped obeying them completely.

Franchisee takes the risk that if there is a deterioration of the reputation and prosperity of the entire chain will be with him "taken" down, without any fault from his side. The negative impact may also be required to follow a strategy designed by the headquarters. If the Headquarters makes a bad decision and the license holder again will suffer with an apparent fault of their own profit or suffer a loss worsening economic situation of the company. The disadvantage of a strong dependence on the Franchisee the Franchisor has a very negative impact when the franchisor is unable to meet their commitment, without which usually cannot operate even the franchisee.

Franchise agreement also generally regulates the business opportunity of the franchisee or his work in the same field, which is the subject to franchise. These limitations often apply not only for cooperation with the licensor, but also for several years after termination. Franchisor is trying to escape and prevent unauthorized use of the internal of information.

The obvious negative aspect of purchasing a license is that the franchisee cannot be free to sell the license, because the franchisor has a natural interest in ensuring that the license was owned by an appropriate person. Often oversees not only to whom the license is sold, but also to the fact at what amount. The downside of buying a license is also the fact that there is no doubt that with the right to its use is often considerable fees associated. (1) (4) (6)

2.2.3. Advantages of the Franchisor

The Franchisor is by providing a franchise able to make a reasonable profit without having to face the capital risk. Also a number of concerns drops that are associated with routine daily matters that would otherwise be the issue of the management and ownership retail chain would have to deal with it.

One of the major positives of licensing is that it can be expected to streamline upwards operations as the leading classical salaried employment has generally no such work assignment as a franchisee, which is engaged in the business capital. Franchising is the licensor for the ideal form of expansion and does not namely need the insertion of any additional capital, as it is given by the franchisee. The Franchisor from this cooperation also benefits by the way that the license holders usually know better the environment and so can enforce themselves much better. This is especially true if franchising is used as an input method the foreign market.

Franchising is often called as the system of outlets. This name is best suited for the situation where the franchisor is a producer of certain goods and Franchisees build up the distribution network. Grant of the license then works not only as a very good and cheap way to create a distribution network, but also as collateral sales as the Franchisees are in most cases totally dependent only on the sales of the franchisor. (4) (11)

2.2.4. Disadvantages of the Franchisor

Although the franchisor is by licensing premises substantially free from routine matters, he is still responsible for the entire network. He ensures the reputation and the chain is therefore forced to constantly check that licensees comply with all prescribed Standards. The Provider and Licensee may also have very different views on the volume of investment, which should be used by the franchisee to upgrade or renovate the space and recovery equipment and to meet mandated standards of the franchisor. If the licensee would ignore the compliance with all standards that are set, there would be a threat on the reputation of the entire network of stores. Although the headquarters is not capitally engaged at the premises of the license holder their poor management could damage it. This can lead to the deterioration in the perception of the chain without the obvious franchisor's assistance.

The Franchisor also faces the risk that the franchisee may due to his good results acquire the impression that the licensor is no longer needed. There may be a deviation from the original rules of the relationship between two parties or even the effort to break away from the company's headquarters. Using the same logic there is a fear rising that the recipient of the license only lets himself get by the headquarters trained and then with the acquired know-how he creates his own independent operation, which will directly compete with the original concept. (In practice, the above actions can be legally avoided quite fairly)

The Franchisor further in connection with the provision of franchise faces the risks, that in the situation, where some stores are owned and managed directly by the headquarters and some in the administration of the license holders, may be substantial different working conditions for their employees. This fact may cause considerable dissatisfaction and pressure on employees to identical working conditions which may not correspond to the standard in the locality. (4)

2.2.5. Payments related to providing the license

Providing a franchise license is a way to acquirer services to which are usually connected various payments. The license holder often encounters with two types of payments including entry and running payments. The first type of payment is used for example for the provision of know-how and brand, as well as helps in selecting a suitable site and builds a business. This fee is usually around 5 to 10 percent of the total input costs of the licensee.

Interim payments are linked to services that are provided to the license holder throughout the franchise. These services include mainly marketing, which is common for premises in the entire network and is usually secured by the headquarters. In addition, the ongoing training workers, provision of suitable raw material suppliers, development and assistance with the implementation of new products. The rate for these services is continuing normally from 1 to 15 percent of the actual gross sales, while here it can be set by both upper and lower limit of absolute payments. (4) (Czech Franchise Association, 2008)

In some franchise networks are only charged initial fees. In such cases the licensor may only provide the know-how by training personnel, supplies or equipment necessary to recommend to the supplier, the selection of suitable location and then the contractual relationship ends. It is then only to the licensee as received the instructions to dispose of the business. However, it is questionable whether in this case it is still a franchise, regardless of how this relationship is called in the contract. There is no ongoing service and assistance provided by the franchisor, which is one of the basic definition points.

(Czech Franchise Association, 2008)

2.3. Divisions of Franchising

For the majority of the population franchising is a business form, which is associated almost exclusively with fast food and other types for example realty concepts. According to Mendelsohn (4) can be franchised almost anything and the list of franchise companies in the United States gives him the truth. According to the diversity it is useful to classify the market of franchise concepts into certain categories.

The first option is to follow Zbynek Loebel and Dana Lukajovou (1994), who understand franchising as a marketing system that has three different forms:

1. Production of the patented product. In this case, based on the franchisee licensing agreements for products manufactured joins trademarks of the licensor.
2. Distributor Agreement. Franchisees are working as a distribution network of the Franchisor products. This is an example of the car or gas station concepts.
3. License Agreement. With this agreement, the transferee may operate a specific business under the auspices of and on behalf of the franchisor. The Franchisee provides ongoing assistance and it also checks whether it complies with the standards common in the whole chain.

The above-described division of the current market (especially the Czech one) is not too beneficial, because the vast majority of today's franchise concepts falls into the category of licensing agreements, which are also known as business format franchising. A significant expansion and instantiation of this division represents Mrs. Řezníčková (8), she focuses on different aspects by which it is possible to proceed:

First - Historical

- a. The Product franchising - permission to sell branded products.
- b. Franchising business - obtaining licenses to certified business concept, including support during operation.

Second - Subject Franchise

- a. Industrial - licenses to produce products and possibly subsequent sale.
- b. Distribution - sales of licensed products.
- c. Service - provision of services under the name of the franchisor and its supervision and support. Wholesale house - here the franchisor usually acts as a producer of products, which the franchisee (as a wholesaler) distributes to retailers.

Third - Vertical division

- a. Single level - all Franchisees are from the perspective of the hierarchy on the same level in the chain.
- b. Multilevel - Franchisees at various levels of the distribution chain.

4th - Relationship with third parties

- a. Simple - the licensee is not allowed to perform any activities that would lead to the spread of franchising.
- b. Master franchising - franchisor provides the master-Franchisee the right to continue to provide franchising.

5th - The territorial aspect

- a. National - within a single state.
- b. International - across national boundaries.

The given terms are beneficial in the theory, but the analysis of the Czech franchise market is based on the information published by the Czech Association of franchising (2008) and shows that, once again almost all concepts can be integrated into a single formula, namely: business - service - single level - simple, where only breakdown by group of countries, the vast majority does not fall into either category, but here it is based on approximately the same number of Czech and foreign concepts.

2.4. Legal aspects of Franchising

As already mentioned before, in many publications the official definition of this form of business is not really recognized by the Czech law. Contracts that are concluded between the licensor and licensee can contain many terms that are described by the Law on Protection of Competition (hereinafter OHS) as illegal practices. It's all about fulfilling nature of agreements distorting competition, which are hereby defined by the law. These agreements between businesses are generally all of which may limit, distort, prevent or otherwise distort competition.

Specific arrangements which are quite common in franchising and fulfill the above general description as those that leads to direct or indirect determination of the price of a single business entity. Further commitments to reduce and control the production, geographic market partitioning and franchisee obligations that will be determined by supplier (may be again the franchisor) and remove services or products directly not related to the business of the designated franchise agreement. As unfair practice in terms of OHS we can consider the commitment to limit market access to other competitors; i.e. not to provide additional licenses.

It is therefore apparent that franchising, as a narrow vertical relationship between the licensor and licensee and as a horizontal relationship between Franchisees, to some extent, restricts competition between markets actors involved, which is contrary to OHS. On the other hand, the vast majority of franchise concepts do not operate in areas of the market where collusion and especially the competition occur most frequently. These tend to be fields such as energy, or network suppliers and no fields of small and medium-sized enterprises, which are typical for franchising. There can be a contrary, contributing to public interests, in particular with regard to the production of goods or promote technical and economic progress. This has resulted in Czech law awarded by the Office for Protection of Economic Competition certain types of agreements, thus franchising, the general block exemption, which to some rate makes it possible interfere prohibitions of the OHS. This exception has but with certain conditions.

Among the most important issues are that actors of the agreement must not be on the market is in a position to be able to conduct their undermining in its competitiveness. Another example is the requirement that one party to the agreement was not entitled to impose the price of the other side, regardless of whether the terms of trade were between them or a third party. (8)

2.4.1. Franchising in the Czech Republic

Mapping of franchising in the Czech Republic is complicated by the fact that the domestic legislation does not recognize this and in many cases it is not possible to determine exactly whether a specific relationship between trading partners is franchising or not.

Furthermore, in the Czech Republic there is only one, but now more organizations that aim to associate to provide Franchise. It is therefore difficult to determine exactly how much is in the Republic franchising networks or systems. For the most trusted source of information from which this section is drawn primarily work is widely regarded as the Czech Franchise Association.

2.4.1.1. The development of Franchising in Czech Republic

The first franchise systems in the country occurred in 1991, when arrived at the local market companies like Yves Rocher and McDonald's. (7) Dissemination of forms of business in the early days was by no means easy. Mainly inexperience prevented business with this system and business as such. (12) The development was also slow because foreign companies operating these concepts would not trust in the Czech legislation and also did not find enough suitable candidates for the license. A significant problem was also a lack of equity between the bidders.

In recent years, however, shows that franchising on the Czech market will still be more prominent. This is evidenced primarily by unprecedentedly growing interest of foreign systems to enter the local market. A major impetus for this growth is beyond the current positive economic and political environment as well as entry into the European Union and the associated harmonization of Czech legislation with EU laws. This was raised as a shield of foreign investment and enforcement of judicial decisions. Positive impact on foreign investors also operates the gradual harmonization of the Czech tax system.

(Czech Franchise Association, 2008)

The development of franchising in the Czech Republic also contributes to changes in the world market and in international trade. There is a noticeable increase in constant

competition, which forces small and medium-sized enterprises to build networks and alliances, which allow you to strengthen our position in the market and provide some protection against competition. Also leads to the internationalization of trade and expansions to new markets. This again requires finding business partners and strengthening relationships with them.

(Czech Franchise Association, 2008)

In line with the above fast growing number of franchise concepts are which are available on the market. Similarly is increasing the number of belonging to license holders of individual concepts. At the end of the year 2003, according to statistics of the Czech Association Franchising (Franchising Czech Republic, 2004) there are about 90 different franchisors.

At the end of 2007, there have already been registered 131. The Association also states that the franchisor rarely opens its own establishment and focuses instead on opening additional licenses. While the one still feels that the license holders in average have only 1 or 2 establishments. Of the current franchisors is about 50% from the field, and 50% of the area of trade. There is a large group of licensors to fast food outlets and also there is a significant number of Realtors. Other common areas are from the hotel industry, Tourism, selling fashion and textiles and cosmetics stores and drugstores.

(Czech Franchise Association, 2008)

All franchisors, who are registered by the Czech Association franchising, together with their areas of operation are listed in Annex 1.

2.4.1.2. Czech Franchise association

Czech Franchise Association was founded in 1993 as a nonprofit professional, organization grouping at the national level providing licensing and franchising experts focusing on this issue. The main mission of the association is to create favorable conditions for existing franchise systems and support further development of this form of business.

Member of the Czech Franchise Association can become any domestic business entity that applies to the Czech Republic for more than one year in franchising as a distribution system

and has provided a license at least for two franchisees. Two other possibilities of obtaining membership of the holding of a master-franchise is a reputable company on the domestic market or a company performing or publishing consultancy activities in the field of franchising.

There is also the possibility of extraordinary and associate membership for candidates who do not meet the above said criteria.

(Czech Franchise Association, 2008)

2.4.1.3. Franchising as a method of entry onto the domestic market

One of the frequent themes of the franchisor for licensing is ignorance to the local market and the assumption that the franchisee has the knowledge and will be able to utilize them for the benefit of both. Entrance to the new market obviously carries with it an increased risk of business failure, so it is advantageous for an expanding company to transfer a lot of this risk to franchisees who will then participate in the expansion of the capital.

The fact that the franchisor is originally from abroad, the acquirer does not license or takes an extreme increase in risk compared to domestic major drawbacks. It is therefore a mutually beneficial relationship, which is widely used in the Czech Republic and has usually one of the following forms:

1. Direct franchising. This is particularly the case when the franchisor in one country manages a network of franchisees in another country. This strategy is typically used for the first phase of expansion into a new market and is only suitable for smaller regions. For example the managing of franchisees in the Slovak Republic is from the headquarters in the Czech Republic.

2. Regional Franchise headquarters. The parent company in the country / region creates a subsidiary, which also provides franchise and enforcing the rules laid down by the parent company.

Examples include McDonald's Czech Republic.

3. Area developer. Very close to the previous form, but instead of opening regional headquarters contracted with a third party, local partner who searches for suitable franchisees franchisor and then provides them with care and consultancy. In this country, this form of cooperation is not in practice.

4. Master franchising. The essence is that expanding the company provides franchise to the whole market, i.e. master-franchise. Master franchisee then is given to the market and works equally well as a regional headquarters, but it is quite a separate business entity. It also has the option to continue to provide classic franchise within its region. This entry strategies international market is by far the most widespread. For us it is operated as follows for example, fast-food chain KFC.

(Czech Franchise Association, 2008)

2.4.1.4. Franchising companies in the Czech Republic

In this part of the work will be more specifically described and partially divided the franchise market in the Czech Republic. Criteria according to which the individual concepts are categorized into distinct groups is certainly more. In addition, the factors listed in the first chapter may seem like the most natural division according to the size of the necessary initial Franchisee investment, because that largely determines who is given the Franchise intended to offer to a still young Czech market in this respect is very varied. Just an idea, the initial investment for the licensee can range from about 50 thousand CZK (Fornetti Centro, bread) to about 150 -300 000 000 CZK (Obi, hobby-market).

(Czech Franchise Association, 2008)

However, the author based on information about individual franchisors that are presented by the Czech Association of franchising (2008) deemed the most divided licensor according to other criteria. These are, first the actual description of the concept, a form of central support franchisees in the chain, and especially requirements that are imposed on

the franchisor interested in the license. In particular, according to these requirements, it is evident that the majority of licensed operating on the Czech market may be identified either as a concept that creates a completely subsidiaries or as such, which incorporates into its chains already operating independent businesses. These two specific methods of the creation of chain branches are more particularly described in the two of the following chapters. Of course there are also franchisors that you cannot fit neatly into one category, because they are combining both.

2.4.1.5. Turnkey Franchising

For this form of collaboration is the sequence of events usually such that franchisor first builds the business and manages the branch. Thereafter searches for suitable candidates for the position of the Franchisee in its chain, which under certain financial conditions of the business within the franchise is taken up and managed as a separate business entity under the auspices of the names and know-how of the franchisor. Prime running branches secured by the Franchisor are not absolutely necessary, but it is important that franchisees do not operate the enterprise before plugging into the chain, but come already to the finished project, therefore a turnkey concept.

This form of the creation of franchising chains in Germany and are dominated by way, for example, a built network of companies Oxalis, Baguette Boulevard, Paneria or McDonald's.

2.4.1.6. Brand Franchising

Although this method is used by fewer representatives and their place in the Czech market of Franchising is here also. Building networks progresses so that the franchising chain is connected already to functioning independent entrepreneurs with their own branches, which are then tailored to meet the standards and standards set Franchisor. The extent to which individual plants are then given network to comparable, with different concepts may greatly vary.

In some cases there is a complete transformation of business, as in the visual, thus rebranding (Kotler, 2005), and especially in terms of service, where often there is a change

of suppliers and product line. In some franchise concepts, besides the acquisition of licenses and entry in the chain is only almost a negligible change in the customer barely notice. Often it is only a change of name of a company and the associated changes in the marketing strategy.

The franchising system consisting of the association already functioning enterprises one network is common for example in hotels, real estate offices and smaller stores food. It links the licensee to the opportunity to enjoy a familiar name of the franchisor opportunity to advertise as a chain to a much greater extent than it would be able to be an independent shop or an option, because of its economic power to exert pressure on suppliers to improve business conditions. A benefit of the franchisor calculates the primer income in the interim fees for the license in the extension chain, which is especially in the hotel network and is very important. Especially for the Franchisor is important that the franchisee complied with norms and standards set for the entire chain, otherwise it could be dangerous to the name and reputation of the whole. An example of this form of franchising can be in Czech conditions including chain of retail grocery stores Brněnka, the network specialist joinery refurbishment races Welle, and many real estate offices.

You will now be presented to a real estate company Century 21, as a typical representative of a franchising brand. It was founded in 1971 in the United States and the 90's flight massively expands to the whole world, for example in China it has created a network of more than 2000 offices. The company currently operates Century 21 nearly more than 9,000 branches, located in 70 countries. The main area of expansion in recent years is the Eastern Europe where the company has been operating for example in Russia, Poland and Romania.

At the end of 2008 came in the form of master-franchise sales on to the Czech market. It would seem that the culmination of the financial crisis, which strongly affects Czech real estate market decline in real estate prices and the unwillingness of banks to provide mortgages, is not an appropriate time for the entry of new companies. But the opposite is true. Czech real estate market compared to those in compare with developed countries is highly fragmented. Operating here is an unusually large number of mainly smaller real estate agencies and independent brokers. The crisis is usually associated with the decline of

the weaker companies with a total consolidation of the market when there are mergers leading to the creation of fewer, but larger and stronger companies.

This corresponds exactly to the strategy of the company Century 21, which, from their entry into the market in November 2008 managed to now have license to sell the franchise to 20 smaller and larger real estate offices. Among the first of which was then the second largest Czech Reality 21 became a separate office, after which followed for example ABA Reality, Reality, Angel or Dynamic, which are now part of the chain Century 21. That is the current period suitable for cooperation in the form of franchising, confirms to seven licenses sold competitor REMAX during the first two months of this year.

(Economist, 17th 2009)

2.4.2. Pre-contractual faze

It is necessary that before the franchisor is offered the project he was at least involved in one pilot project that was undertaken by him. Once this pilot project proves to be viable for a period of at least one year, the owner may think of franchising project extensions. Legal basis for each franchise company is a contract concluded between the franchisor and franchisee. Yet before this contract, it is necessary to handle the offering brochure, Franchise package, the manual system and the control questions.

2.4.2.1. Offer Brochure

Tender booklet is an obligatory part of any pre-contractual phase franchise business. It should contain a range of products, services and technology, the amount of input and ongoing fees, rules of use trademarks, patents, objectives of the project and the conditions for terminating cooperation. This booklet should serves primarily as an interest in the possible input into the project to be able to get oriented in choosing the appropriate franchising.

2.4.2.2. Franchising package and manual

Franchise package includes a procedure to help in the establishment of the Franchisor new company, permission to use the intangible rights, image and goodwill rules of training and all possible support possible. For this assistance requires the franchisor from the franchisee fees both at the beginning and in the course of cooperation. The content of the manual is a management methodology. It is a kind of a detailed guidance on how to manage daily business franchise process. Since this is almost a step by step guide to success, of course every effort the Franchisor protects this manual. Manual should begin with a description of the franchising project and its basic philosophy. Later following and describing the methods of management of the entire company and its daily operations. It is helpful to have also standard forms such as contracts, agreements on material accountability, trade secret protection, competitive clauses and agreements with suppliers, customers and others, which in normal operation may occur. To conclude it there should be a detailed directory that links to all the members of the franchise network. It is very important that this manual is updated regularly.

2.4.2.3. The system of control questions

Even before the two sides decide for mutual cooperation, it is necessary to ask a couple of questions. It is very important to the franchisee to ask questions such as, I am an entrepreneurial personality? Am I able from a personal and professional perspective to bear the weight of an independent business? Do I have some previous experience with this type of business? What everything I know about the franchisor and franchise business? Are the products or services capable of being competitive in my area? Do I have the necessary capital? How can I obtain it? Does my investment have a real chance to return? Not only these, but many more questions are usually the content of the questionnaire sent to prospective franchisees by the franchisor before starting to fill the application. Very similar questions should be asked by a franchisor. Sometimes these issues are underestimated, but

they should be an important guide for the proper selection of Franchisor and Franchisee vice versa for the right franchisee for project selection.

2.4.2.4. Pilot project

The actual system is usually created by first the franchisor business establishment and after to help him to try to expand franchising. There are relatively often meetings with businessmen, who are named as the black sheep. These entrepreneurs are trying to use franchising to obtain cash resources by offering and selling uncertified and pre- untested project. For this reason, the choice should be a Franchisor thoroughly well-considered decision and very well proven. Franchisor should try to create a project as simple as possible.

It was the pilot project that should verify that this business concept of operations is capable, should address issues, identify gaps in the firm or establishment, determine the optimal opening hours, determine which is the most efficient advertising, etc. In this trial operation often the training of employees is performed who are then subsequently acting as advisors to the new franchisees. Franchisor's obligation to undertake a pilot project is so important that has been incorporated into the codes of ethics of franchising associations.(8)

2.4.2.5. Innominate contract

The usual parties are businessmen, so it is necessary to apply to their relationship the provisions of the Commercial Code, where in § 261 paragraph 1 provides that the third part of the Commercial Code governs the obligations among businessmen, if they occur at the obvious level with regard to all the circumstances, that it relates to their business. According to the Commercial Code can enter two types of contracts. These are the first contract given, which contains more details about provisions currently in the third section of the Commercial Code. The others are unspecified contracts or innominate, which are not expressly regulated as already mentioned. The possibility to conclude unnamed contract is embodied in § 269 paragraph 2 of the Commercial Code, where it is stated that, the parties

may enter into a contract and not designed as a type of contract. However, if there is enough participants unless the subject of their obligations.

Currently the franchise contract is not regulated in any way in the business or in the Civil Code, which under certain circumstances also applies to entrepreneurs. It follows that it is a contract and that it is located in the innominate contract and it's a legal expression only in § 269, paragraph 2 of the Commercial code.

The basic legal requirement for closure of the unnamed agreement is sufficient to determine the subject of States Parties obligations. No other requirements of any other law are provided. Franchise agreement is the only document which regulates mutual relations and which parties determines their rights and imposes on them the obligation. It should therefore be the result of far-reaching negotiations preceding the closing contract. It is not regulated in any manner or form of the franchise agreement. It will therefore depend entirely on the will of the parties that enter into a contract in writing or orally. Given the importance and the lack of regulation it can be recommend that the contract was concluded in a written form. (13) (14)

2.4.2.6. European Franchising ethic code

Although franchising is not legally anchored in the individual national jurisdictions, however is its treatment in the European Union integrated and on a very high importance level. One of the first documents that regulate franchising businesses is the European Code of Ethics for Franchising (European franchising code of ethics) treated in 1972 European Federation of franchising in collaboration with national franchise associations from the various Member States of the European Community.

The Code contains a summary of basic rules of fair conduct and conduct in the franchising practice in Europe. This Code is binding on the members of national associations that have adopted it. The Code was passed by the Czech Association of franchising in its inaugural Assembly on the 26.10.1993.

2.5. The know-how of the franchise concept when importing

Some specifics contain the license agreement on the know-how that can be adapted to third parties, without a charge or for a fee, usually on through licensing agreements. This adjusted license agreement, however concerns only the rights stemming from the industrial property and not from another intellectual property. Is limited to facilitating the exercise of those rights and does not include the transfer. This adjustment does not apply on the know-how and the object is not a right, but the only other asset. The license agreement is the subject of which is the know-how concerned of and will be concluded on the basis of § 508 and following paragraphs. This license agreement may be concluded with using the analogy of the above provisions. It is possible and based on the consent of both parties to proceed in concluding the license agreements knowhow with the use of § 508 et seq. of the Commercial Code. Know-how a certain property value is kept in secret by institutes and this secrecy is served to them. It is therefore necessary to deal with this know-how as trade secret. The protection is then the trade secret granted subject to certain conditions, both within the law of unfair competition and within the criminal law. A substantial part of the contract is the manual. This manual is a kind of cookbook for franchise concept as mentioned before.

Obligations of recipients correlate with the obligations of the provider, if therefore the provider leaves the recipient certain intellectual property rights, he then has a duty to use those rights and treat them according to contract. First of all, just follow the provided manual. Another obligation may be obliged to the source of products from the provider, but more often from manufacturers, who must be approved by the provider. The right of the provider is the control of the recipient and it means the beneficiary obligation to submit regular financial reports of the provider and its activities consist of accounts. Such information usually fulfills two goals.

The first is to allow providers following and the performances of each recipient and simultaneously provide basis for the calculation of fees paid.

The second objective is to enable recipients to see their performance in comparison with its plan with other members of the franchise network. Providers are usually required to present gross revenue, profit and loss accounts and capital expenditure. It is also the duty of the recipient to pay of certain fees. Again, it depends on the agreement between the two sides, as denominate these fees, the amount will be paid and in what time period.

First of all, the recipient pays to providers a one-time input fee. The fee varies depending on the complexity and success of the concept that the provider offers. The entry fee could be characterized as a fee for the development and transfer of industrial protected rights. Another ongoing franchise fee is a fee, which is paid monthly and set a percentage of the monthly turnover. Actually, it is a payment for services that are continuously provided from the provider. The amount of these interim charges are again on different franchising projects varied, but can be determined from other basic amounts, such as net sales from restaurants. It is possible to meet with the calculation of ongoing fees and gross revenues.

2.5.1. Advertisement

In most franchise systems for commercial and advertising, at least in a part, as noted above, cares the provider about the support in marketing. The purpose for this service comes from its contribution to recipients. Most often is calculated by posts advertising using the same method as for the calculation of continuous fees. These contributions and taxes are also related to the need to adapt the contract due. If the entry fee is due date mostly date of signing the contract, the other is always set by maturity on a particular day of the calendar month. It is appropriate for providers also to modify the consequences of non-payment fee as a penalty or interest of delay. The contract may also be regulated by insurance, liability and limited liability.

2.5.1.1. The duty of confidentiality

Regular item on contract is an obligation of confidentiality and confidentiality. The recipient is obliged to ensure that its employees comply with the obligation to remain silent about all data and information relating to franchising system. The provider of your franchise concept usually provided in the contract negotiation of pre-emption rights.

2.5.1.2. Price condition for services

If a beneficiary is received from the providers of goods and products, they can be signed by the beginning of their cooperation, thus simultaneously the franchise contract, terms and conditions regarding to the supply of these goods. Prices of goods or services are provided to the beneficiary and are determined according to the price list drawn up by the provider.

Prices however do not contain precise rates, but the price level, in which it is possible to move. Binding determination of prices would be in contravention of the Protection of Competition. Specific prices then determined by each recipient at the price level itself, taking into account the specific conditions of their contractually specified area and nature of customers.

2.5.1.3. The competition ban and the period of the contract

Franchise relationship should be capable of long-term existence. The contract is usually concluded for a period of 2 to 15 years. There are also contracts with longer duration, but the most common period is 7 years. Given that therefore a long-term cooperation is essential and that a contract is to prevent situations where either one party is not satisfied in the relation to each other. It is therefore necessary to make the end of the contract before the expiry of the periods agreed. Such a possibility is for example the possibility of withdrawing from the contract. Reasons for withdrawal from the treaty, however is properly adjusted.

The basic reason is the long-term insolvency, failure instructions provided by the beneficiary, provider disrepute or failure to achieve anticipated turnover at some time. After the contract is no longer beneficiary it is entitled to sell goods or provide services. It also may not use the name, description of goods, marks and other characters mentioned in the preamble of the franchise contract.

After termination of the contract there must also be a mutual settlement. In foreign sources may be found even with the ban for former recipient to compete for some time or another provider recipients in the same business. For us such a restriction in the contract has not been possible and the provider could prosecute recipient only if after the termination of the contract is used his know-how and business methods which have been the subject of franchising.

2.5.1.4. The arbitration clause

If the franchise agreement has been concluded between entrepreneurs within international franchising, it is advantageous to adjust the question of applicable law, which the contract to manage, and negotiate contract language interpretation and in particular arbitration clauses. Using arbitration appears as if franchising appropriate dispute resolution, even in cases of national franchising because that disputes are discussed, and methods of internal information confidential nature that the public trial could be abused.

2.5.2. The final clauses

In the interests of legal certainty, it is appropriate to incorporate into the contract a clause stating that contractual lose all previous agreements between the parties, their force. It is also injecting clause in the contract that if any provisions of the contract and becomes invalid, the other provisions shall remain in validity. The contract must be signed by the parties and, of course, bear to the date of the signature. In some cases, the contract is concluded in front of witnesses who will sign as well.

Finally, it is useful to summarize the franchise agreement is a very complex document that needs to be carefully worked out. In particular, it is necessary to take into account its long-term absence and the fact the legislation. Contract should be concluded after long and detailed negotiations between the parties to which parties should invite a consultant with legal education and to prevent and potential conflicts that might arise from the contract. (8)

2.6. Business legal act

Franchising is a relationship between two or more separate businesses. Entrepreneur of the Commercial Code shall mean the person registered in the Commercial register, the person doing business under a trade license, a person business under other than trade authorization under special regulations such as lawyers, doctors, notaries and individual, which is engaged in farming and is registered in the register referred special law. All these persons must perform continuous activity their own names and on their own responsibility in order to achieve profit.

One of the cornerstones of the franchise privilege franchisee is the use of a trade name of the franchisor as already mentioned. Trade name is a name under which the entrepreneur acts is in their business. The commercial name of the natural person's name and surname is possible with a clause that sets it apart from other entrepreneurs. The business name is a legal entity and the name is under which it is entered in the Commercial Register, or another law tent to the Register. Business name of the legal person must contain an appendix that identifies its legal status. The law prohibits transforming the business name without a transfer, but is not an option to use a trade name of another business entrepreneur. But it is essential that the franchise agreement was incorporated arrangement by which the franchisee is entitled to use the trade name of the Franchisor in connection with the franchise system and its features and on the other hand the Franchisee will have a duty in the ordinary course of a trade act as an independent entrepreneur.

An essential provision is the protection of trade secrets Franchisor. Trade secrets defined as a subject of rights belonging to business. This course also describes in this provision of several characters.

Firstly is the material characteristic of the notion of the Commercial secrets. By law, trade secret includes all commercial, industrial or technical nature relating to the business.

The second sign of commercial secrets is that all the conditions are of actual or at least potential tangible or intangible value. In this character is also included under the general requirement definition of the business assets of the company and in § 5 and 6 of the Commercial Code, which is appreciable trade secrets as a component of the business.

Third character of trade secret is that fact that it consists not in the relevant business society.

The last assumption is of subjective nature. Order for a fact to have a trade secret, it must be according to the will to reveal the entrepreneur and businessman correspondingly ensures its confidentiality. Trade secret law is exclusive. His content is authorized to dispose of a mystery, especially to authorize its and determine the conditions of use of such use, which is a legal authority and which the Franchise is for use in almost all cases. Entrepreneurs obtain for the legal protection violation or threat the right to trade secret in unfair competition. With this protection of the resources lie in the fact that the entrepreneur whose right has been infringed or threatened and has the right to demand that he who violates the law or threatens your refrain and removed caused by the defect. Entrepreneurs may also claim reasonable satisfaction, even in money. If damage occurs entrepreneurs can require compensation. If the offender such dealings enriched, the entrepreneur has the right to issue such an unjust enrichment.

With the protection of trade secrets related to the protection of know-how. Aside of the franchise relationship may be a foreign person, usually from the Franchisors side. A foreign person is a natural person residing or entity located outside the territory of the Czech Republic. Enterprise foreign person is considered to be the location of a business or its organizational unit in the Czech Republic. A foreign person may be in the Czech Republic

participated in the formation of a Czech legal entity or to participate as a member or a partner already established Czech legal entity.

For the foreign franchisor is the current legislation advantageous and it can be opened by the Czech legal entity and, through her, to implement a pilot project and to take other important steps to expand its franchise network in the Czech Republic. What should not be forgotten when doing franchising is to secure obligations. Important institute in this area is a penalty obligation. This penalty is one of the means to secure an obligation, which the contracting parties agree on and also that the borrower is obliged to pay default by a certain amount, but unlike with interest, it is necessary to arrange written form, otherwise the legal claim arises even when the violation. The amount of the penalty is to be determined in advance by either absolute or determination of the method of its calculation.

The obligation to pay the penalty may be prosecuted by suppliers, such that in the case of failure has to supply the goods on time, as well customers, who may not have removed the entire quantity, ordered. For contractual fines must distinguish what is the legal relationship is concerned, either commercial-use or civil. In the civil regime, the payment of the contractual penalty shall not release the debtor from complying the following secured obligation, contractual penalty generally preclude the claiming damages, unless the parties otherwise agree, and the debtor is not obliged to pay a contractual penalty. If the breach fault will take a wrong way the possible litigation to prove as appropriate. Mode of the legal business for business obligations has to apply, although the treatment of the Civil Code exempt with significant variations was given by the Commercial Code.

First of all, circumstances excluding liability have an effect that the obligation to pay a penalty, which is particularly important when compared to the damages, for which it is not generally required that, when it proves that the breach was caused by circumstances excluding liability according to § 374 of the Commercial Code is necessary. The Contracting Parties may, however edit conditions notwithstanding and are not mandatory to provide the provision. In contrast more over is that a disproportionately high penalty can be reduced by court. Surrendering the contract does not affect entitlement to the payment of the penalty, but these provisions yet again not contractually bind and can be changed.

Contractual penalties can provide any breach, not only timely payments, although are naturally the most common case.

In practice prevails approach where the agreement on the contractual penalty is provided directly part of the contract can be however, the same legal effect negotiate separately with the penalty reference to the secured obligation. The second case will be in place if, provided by the contract was concluded orally only, we had to keep in mind arrangements that the penalty must always be in writing, otherwise it is null and void, even if the debtor with him and subsequently agreed to such performance would be assessed as unjust enrichment creditor without legal reasons. For this reason it is recommended to enter into a franchise agreements and arrangements written exclusively on contractual fine to include as one of the points the entire contract between the franchisor and franchisee.

The cases can be specified in advance in the contract negotiated option withdrawal from the franchise agreement. You can withdraw from the contract only if it is provided by law or contract the parties agreed. Cancellation of the contract is governed by the Commercial Code in two planes. Above all, the general rule contained in § 344 to 351 them delays associated with the debtor or creditor and rarely allows the cancelation of the contract even if there is a delay occurred. Moreover the Commercial Code contains a number of special provisions in which they are the possibility of other reasons for withdrawal. These reasons are both in the general and business obligations, as well as the specific provisions of some business obligations, i.e. in the provisions governing the various types of commercial contracts.

Some of them are connected to the breach of contractual obligations, others are not. In general legislation applies that the specific provisions are not included in different treatments. The Commercial Code, concerns arrangements for independent adjustment in the Civil Code. At the same time it goes in its entirety to modify the dispositive. Withdrawal from the agreement terminate all rights and obligations parties, except the claim for damages agreement on choice of law or choice Commercial Code and the settlement of disputes between the parties. In the franchise agreement should be strictly defined the conditions under which you can withdraw from the franchise agreement to

prevent such abuse status of the parties to the Franchise relationship. It is also appropriate to formulate that contractual obligations are considered for resignation to be substantial and that as irrelevant. Another option is extinction unfulfilled obligation Institute severance modified § 355 of the Commercial Code.

Adjustment contained in it is of dispositive nature therefore, the Contracting Parties may, in exercise of its freedom deviate from that principle. But it is always important to keep in mind the provisions of § 265 of the Commercial Code, which provides that the exercise of the right, which is contrary to the principles of fair trade, legal protection is not used. Institute severance lies in the authorization of a Party or both parties to cancel the contract by paying the other Contracting side in the contract the severance pay. In such event, the Convention shall be deleted from the beginning, if the entitled party shall notify the other Party that his law uses and pays the other party a contractual severance pay. Given the nature of severance would not be appropriate to insert franchise contracts provisions on the authorization of any Party paying compensation contracts canceled. Franchise agreements are a so complex system of contractual cooperation that it would not be appropriate and reasonable to give any contracting party the right to cancel the contract by paying severance.

Franchisee in this institution could be used to acquire know-how and other skills that once they got them all, he would pay severance and the contract would be null and void. Cooperation is also possible to terminate under § 582 and following Civil Code. This civil law, which is applicable to Commercial commitments in various types of contracts covered Commercial Code contains different rules. Then thus has special legislation, of course, take precedence over the general. Testimony can be ended only cooperation based on contracts for indefinite.

A very important role not only in franchising plays advertising. Franchise businesses have to be very careful when choosing advertising resources, since each ad must meet requirements for her imposed namely Act No. 40/1995 Coll. regulation of advertising.

It should also not forget to Act No. 634/1992 Coll. Protection consumers.

3. IMPORT OF A FRANCHISING CONCEPT IN PRACTICE

3.1. Information about the Concept

Progression company corporation LTD

The company was founded in 1998 in the city of Krakow, Poland, as a company dealing with a wide range of activities. In 2000, the owners decided to start working with the Internet. In the same year idea to provide comprehensive services on the Internet. As an initial Contacts.cz domain has been registered under this name arose portal which currently contains approximately forty thousand listings. Other activities are the provision of unlimited wireless Internet connection, complete graphic and advertising work relevant to presentation on the Internet and creating presentations. Since Krakow, Poland region managed for the past five years to reach huge number customers, the company decided to expand outside of the Krakow, Poland Region. After careful consideration of how it would be to ensure the development in other regions, the optimum appeared just as franchising.

For the franchisor is presented the opportunity to have in each county trained colleague, without an entailed disproportionately large financial investment. On the other hand, for the franchisee to benefit from skilled designers and programmers is a proven software and proven system by thousands of customers without high financial requirements, both initial and during cooperation.

In the fall of 2005, the company participated in the fair franchise Opportunities FRANCHISE Meeting Point in Brno within INVEX 2008. This option seemed to be optimal, as the price of a few tens of thousands were present possible candidates the project www.internet-centre.com, which cover the entire name provided Services. During the four days on the stand gave way to a lot of professional and lay public. The result was sixteen

potential candidates for cooperation which has already been introduced in detail at the fair system, explained the intention Franchisor and forwarded the necessary materials to study.

In January they were invited to a seminar on the future cooperation. After his graduation for cooperation decided seven entrepreneurs from different parts of the Czech Republic. The month of March is five of them just before signing the franchise agreement, which is attached to this work.

3.1.1. Business under a trade license

A simple way is to apply for a license as a business tradesman on the basis of valid trade licenses. All desired trades are a 'free trade, it is not their issue to require special training, experience or other skills.

The second issue is advertising and marketing. Under this business can be offered and sold for example advertisement on the internet and can provide complete Internet consultancy.

The third necessary trade is data processing, database services, and network administration.

This business is needed to the service called web hosting. Starting up a business as a sole trader are the terms of settlement of all legally prescribed conditions for business by far the fastest. An applicant for the issue of trade licenses can only provide confirmation of his indebtedness to the territorial and financial authorities, criminal punishment and pay the administrative fee of 1000, - CZK for each issued trade certificate. Starting up a business can be at the date of the issuing of this trade license.

3.1.2. Limited Liability Company

Most applicants for franchising business are in the form of a LTD company. This method can only be recommended, even though the limited liability company is somewhat time-consuming and a very complicated process. The process of getting trades is the same as in

the case of trade business. Setting up a limited company needs approximately 200.000, - CZK and requires approximately three weeks of preparation.

Once the entrepreneur has settled all the necessary documents, faces the decision how they will conduct business. He can begin to develop his business plan and in a way to take risks and hope they chose the right path. Another way is to use a previously proven legally business concept.

3.1.3. Costs for business

Cost of such project, such as the www.internet-centre.com can currently be quantified at approximately 1.500.000, - CZK. Necessary technological background can be bought for 200.000, - CZK. The biggest item is the development of necessary programs and fulfillment of the database of companies. Currently, the website www.contacts.com registered more than 40,000 businesses. Addressing one company and requesting her consent corresponds to 20 crowns, so we have a simple multiple of the amount of 800 000, - CZK.

The remaining 500.000, - CZK will require programming a publishing system for the web content management. If anyone was still willing to invest in the considerable resources, truly runs to a great risk of failure. Foundation of a franchise company will require only a tenth of the above mentioned investments, franchisee thus save at least 1,400,000, - CZK. Instead of wasting money, energy, time and starting making up the concept after a few months of operation, can begin to invoice the first services, exactly in the first week after the foundation. From the Franchisee is required a very minimum. Minimum of technical equipment is meant a computer connected to the Internet and mobile phones. From the above mentioned follows the fact that the opening of a new franchise business can be franchised after signing the contract and is a very fast process. For any business activity the collection of invoiced amounts culminates.

With franchising the project www.internet-centre.com this process can be accelerated by up to several months, with less risk and cost required at a decimal number.

3.2. Products of the Franchisor – company sign in

Www.internet-centre.com franchising project consists of several products. The first is a business listing in the directory www.contacts.com. Basic description of the company's activities and contacts for free. The task of the Franchisee is to offer and sell prior statements in the section sponsored links for 1, - CZK per day. Just one crown is essential idea of the whole project and because it has been managed in the past five years it earned thousands of customers. The customer pays only 1, - CZK per day skipping his competition in the section in which it is inserted and also has the option to use the unique services call the "Action". In addition, the option of having extended information about the company, insert corporate promotional banners or images and highlight one of the activities that shall be placed immediately next to the description of its activities.

Thanks to the interconnected information system it is quite distinct from corporate customers who have description for free. Franchisee is responsible for contacting potential customers and is preferred to negotiate these entries for 1, - CZK per day for at least one year. Print on pre-printed forms at the customer's request, which contains all the necessary information. After that it is sent to the headquarters, where it is in 24 hours processed. Preview of such registration is sent back to the Franchisee, along with the invoice sent back to the customer. After the payment of the final invoice to the customer, who is served by the franchisee a message is sent to the franchisor that the registration will within 24 hours be displayed on the internet. From the above mentioned it follows that only task of the Franchisee is the task to communicate with the customer and the only necessary technical equipment is a computer connected to the Internet. Thanks to the benefit of the Franchise the Franchisee can use the engineers and designers of the franchisor and he does not have to start a financially challenging system.

3.3. Web Pages

The system of the one crown is also set by the core activity, which is the creation of the web pages with accompanying services. In the Czech Republic is more than half a million active businesses. It is estimated that its Internet presentation of the companies has a little over a hundred thousand. The reasons why it is not this system of promotion, which is far not more widely spread is more. The largest of course is the price. For many entrepreneurs, the amount of production for websites in thousands or even ten thousands is unimaginable. This is the biggest obstacle so the franchisor decided to remove it in a sharp way. With thousands of customers, good technical and personnel background of the franchisor, the franchisee offers for the website production only 1, - CZK. End customer has a choice of five pre- programmed templates. Template system can be compared to the engines produced at TPCA Kolin, where one type of engine is mounted in three different bodies of three cars of different brands. Consequently each car looks different, but the end customer who bought the car more cheaply than if all three automakers produced engines each separately. This principle also works in a similar website for templates at the amount of 1, - CZK.

Site structure produced e.g. according to a template with vertically placed menu is very similar, but the appearance of each site is of course, different. The production of each page is of course based from different parts such as a logo and corporate colors, photos of the establishment, products, etc. Instead of each customer would pay the programmer's job separately, this cost is distributed among hundreds of customers. The only requirement is a contract for the operation of such sites for at least 24 months.

3.3.1. Publication system

Another obstacle to the development of their website is difficult and expensive updates. There is nothing worse for a company than when after entering the Internet addresses these

pages or not display at all, when there were old data such as on a malfunctioning telephone number. Such pages can be on the Czech internet still findable in a huge amount. The reason is that programmers work is very expensive. Often it happened and even yet even happens that a change of a single data source is charged as a phone sometimes in hundred crowns. So there is no reason to wonder that it is regularly updated to owners of such websites and they do not want it very much. The solution might be a system, which allows the owner free of charge and can immediately be updated. Such a system, called the English CMS (Content management system) and therefore the tool for web content management began the franchisor to develop in 2001. After a careful consideration he decided to build his CMS platform called Typo3.

The basis of this system is the subject of the GNU license, which in a nutshell means that the operator cannot sell it. For the Franchisor this system worked out and he translated it into Czech. That did not violate with the GNU license, and it is offered as a part of products for free. With this system, the end customers can instantly and completely do a free update of their website.

3.3.2. Transferring the publication system

In its activities, the Franchisees of course do not only focus on customers who do not have a website. There are lots of companies that their www sites have, but their operation and the update is worth thousands or even tens of thousands of crowns each year. Such clients may use the franchisees offer to convert these pages into a publishing system. Due to the very advanced method of programming the end customer does not know anything, if he wishes to maintain the current appearance of such sites and the site with his consent, but without the transfer of any work. Price for such transfer is always determined based on an individual quotation and CMS is supplied for free of course.

3.3.3. Web hosting

Operating condition for every web site that has mistyped the address of the page is web hosting. This service means renting space on data servers of the Franchisor. These servers are located in a secured room at the headquarters of the franchisor, are connected to the fiber optic link to the Internet which guarantees huge bandwidth and of course the constant technical supervision. This service is necessary so that web pages are always a loadable and protected against unauthorized access by third parties. With this service it involves the provision of email services. Every customer has there several mailboxes. For their selection can be used the Web interface to the franchisor or may collect through standard mail programs like MS Outlook.

3.3.4. Price comparison and description of the competition

To get an idea of the situation on the market here is an attached comparison of services of the franchisor provided by its largest competitor AVONUX Ltd. This company offers publishing system called the Web system. It is a system developed by the company. The features and options are almost similar to the Franchisor's system Typo3. The main difference is in the pricing policy. While the company focuses on large firms, which can afford to invest in Internet presentations thousands of dollars, franchisors project is for everyone.

Price of the basic configuration of Web system is 30.000, - CZK, in our case the Franchisee CMS provides for free. Price for webhosting and additional services at the company AVONUX Ltd. is set to 790, - CZK without VAT month of operation. Franchisee provides this service for 10, - CZK per day without i.e. VAT for 300, - CZK without VAT per month. Price for creating web pages at AVONUX Company Ltd. determined based on hourly work. The average we get the amount of ten or more thousand. Franchisee provides this service and for 1, - CZK.

If we take the example of a smaller company or tradesman, we can declare a very significant way, why is franchisors product on the market so popular. For companies like AVONUX Ltd. the client for at least comparable service paid following. Approximately 10.000, - CZK for the creation web pages, 30.000, - CZK for basic configuration and publishing system year of operation at the amount 9480, - CZK. In total, the first year the amount of 49.480, - without VAT is charged. With the Franchisee's resulting amount is due to the large number of clients and trade policy is taken and was fairly created. From creating a basic web page and the fulfillment of the basic content of 1, - CZK. Publishing system is completely for free. In a year of operation i.e. 3650, - CZK without VAT is generated.

Franchisee signs with the customer the order, a copy which will be sent to the Franchisor. Customer gets the invoice from the Franchisee. Once the invoice is paid, the Franchisee shall inform the Franchisor with a message. From the customers it is just needed to get the materials for the foundation and basic fulfillment of the website. Once these documents are received from the Franchisor, these sites are launched within 48 hours.

The Franchisee thanks to the cooperation contract with the Franchisor gets to the position of an experienced, reliable and, above all, one of the cheapest Internet service providers in the market. The above quotation shows that the franchisee can with minimum cost achieve large profits. (15) (16) (17)

3.3.5. Suggestions of the support from the state

Just to summarize the facts and let the proposals more flow onto the Czech market we have to add that the better support from banks, institutions and state are more into these concepts and are deeply connected in the import.

First of all the situation has to get better with the association in the Czech republic as mentioned before and to support it better so there is really a strong partner to help in any case needed when entering with any project onto the Czech market. We have to have a

strong background for the potential customers since the companies will otherwise franchise from abroad.

Second thing is that the banks should make their portfolio larger and there should be more than one bank offering franchise financing. The banks should give the entrepreneurs a better interest on these products and getting together with this to the third and last point we have to point out the fact that the state is not taking care of these incoming concepts since it is cost worthy and they are depending that if the market is not assigned already by strong competition they will enter. But with rising state debts and higher taxes the view of the incoming companies is weaker and weaker. They see that the people are still holding money and not spending that much, just for example if you take the fast food chains they are and will be successful due the power of the buyers. But restaurants like Potrefena Husa will maybe experience some problems in the future due to the fact that really the people are buying more food home and do not want to spend much when going out. Especially when a typical Czech consumer in average, does not care about what he is eating.

Getting back to the company dealing with internet and web pages we can say that there is still a large potential to enter and develop the market in even a strong competition.

3.3.6. Notes to the attached example of a Franchising Contract

A Franchise agreement attached to this work (Annex number 2) is the standard contract concluded between the XXX company as the Franchisor and the second company XXX as the franchisee. Since this is a contract model, some parts may be different from those in specific contracts concluded with specific franchisee in each region. In each region it was necessary to take account of local conditions, the market situation and competition of course, both common by third parties.

The point I. specifies the parties. The franchise contract is important not to forget the bank number and of course the date of the contract.

In section II. are closer specified products through this franchisee contract that he may offer and sell. In this very dynamic sector, namely products change and the improvement is very

quick. More detailed specifications are contained in the manual, which will be regularly updated. This step I avoids responsibilities at each change of products or to enter into a contract to change its additions.

In section III. is an Franchisee the obligation to perform under the head of the franchisor. In terms of the success of the project, it is important that Franchisees get everyone involved in this project performed under one trade name. It also negotiates the Franchisor's right to withdraw from the contracts in violation of this obligation. It is of interest that the whole concept served to customers as a whole, which he has to deliver as the credibility.

In section IV. the Franchisor shall be negotiated by obligations to the proper support to the Franchisee at the beginning and during the cooperation. Without experience and supervision of franchisees may namely cause problems. The most important part in this section is to take care of this right from the beginning of the cooperation. Important passages are the authorized access of the Franchisee to use technical and staffing of the franchisor. Thanks to this can the Franchisee provide without any investment services immediately, the preparation for the franchisee would cost hundreds of thousands of crowns and months of preparation.

In section V is adjusted the maintenance of the Franchisor's obligation in terms of the right to franchise in concepts in operation. The purpose of this article is to protect the Franchisee investment in this project.

In section VI. is another way to ensure the Franchisees investment. In order to take full advantage of their knowledge and business acumen in his hometown, he's ensured exclusivity. It is this provision of the franchise contracts in certain cases received for consideration before the Office for Protection competition.

In section VII. is adjusted for the further support of the franchisor. It is extremely important to ensure by the Franchisor the in assistance foundation, but also in business operations. Character franchising is that all materials and advertisement prepared centrally and individually to Franchisees and they are required for this to contribute in.

In section VIII. in the contract marks the technological progress. In the best interest of the franchisor is to constantly improve its services and so he can keep pace with its competitors, or has even tried to overtake the competition. It is important that this right is not limited by the consent of the franchisees. In this, if the franchisor has lost the greatest right that belongs to him and is like a creator of the project it can lead and develop independently.

In section IX. is to the Franchisee provided investment protection. These provisions are very important, because in many franchise systems, these fees are high. They are also a way to prevent use of franchising black sheep who want to use this system only to backstop their dysfunctional businesses.

Section X. emphasizes more of the essence of franchising, which is confirming that it is cooperation between two legally and economically independent entrepreneurs. So it is not in any way constituted as a dealership. Franchisee continues to act as a single entity, but is entitled to the required use and operation under the Franchisor brand. Just because you can ensure a uniform appearance establishments and other characters are a franchising project.

In section XI. the obligation is governed by the Franchisee to learn more. Them both important is that all Franchisees and their employees worked to a professional impression to prove corresponds to the most questions from customers and were able to maintain a high reputation of the entire project.

In section XII. is again remembered the good reputation of the franchisor and the project. There is also remembered in the case where the franchisee will want to offer even JNE services. It is not expressly prohibited by this Agreement, but this is a conditional consent of the franchisor. Furthermore, he is not entitled to sell these services to other entrepreneurs who would sell them to end customers. Hereby the procedure could be granted because Franchisees are sub-franchising without the control of the franchisor, which is for the protection of the reputation and to ensure the control of the franchisor is inadmissible.

In section XIII. is modifying the obligation of the franchisee to inform the Franchisor regularly on developments in the market, the number of customers, the amount of its orders

and any facts that may affect the market situation or franchise concept. Franchising is a very narrow term collaboration of two or more entrepreneurs. It is important that together actively communicate and thereby ensure that their mutual efforts led to a satisfied customer.

In section XIV. again the protection of the reputation and intangible assets Franchisor for cooperation, but also for the terminations. It is a type of competition clauses which must never franchisee termination of cooperation stand for some time in a competitive position against the franchisor. In this article is also embodied the transfer prohibition of franchising rights. This provision is to prevent the franchisee without the knowledge of the franchisor that has not transferred its business to another entity.

In section XV. is addressed to advertising. In most Franchising concepts, advertising is addressed to two levels. Franchisor provides advertisement as a central to which he contributes to the individual Franchisees who are required to perform even while local advertising according to their capabilities.

In section XVI. is estimated the amount of the entry fee. The fee is an equivalent for preparation, which is required by the Franchisor to open a new franchise company. A large part of it consists of training and Franchisee employees. Continuing fee is set at 40% of gross turnover. Though it may seem at first sight that this fee is high but it is not. Bestsellers package consists of creating the websites for 1, - CZK annually as the priority for registration. The resulting amount of this package is exclusive at the amount of VAT 4016, - CZK. Franchisee remains the amount of 2410, - CZK from each such contract. It is important to realize that all technical issues are addressed in central level by the Franchisor and Franchisee i.e. after the deduction of the relative cost of the phone, office, gasoline and other necessary expenses it still remains a very interesting figure.

In section XVII. more developed section XII is regarding the competitive status of the Franchisee, sub-franchising etc. It is recommended that in franchising the divorce agreement is in detail, because the protection of the Franchisor know-how should be one of the most important points of the agreement.

In section XVIII. ensures the financial control by the franchisor. This check is important for both in terms of calculating interim franchise fees, both for control of the management of Franchisees. It can be considered as one of the disadvantages of franchising because not every single businessman he can tolerate that kind of controls.

In section XIX. as in any other contract needs to be specified the going of the period for which the contract is concluded. Franchise agreement is mostly concluded for a period of 3-7 years with an option or preferential right to extension. This contract is concluded for a period of 5 years. The aim is to invoice each year all existing customers and will do the same in addition of new customers. The advantage for the franchisee is the technical fact that if a client has a web page built on the platform of Typo3, he cannot choose another service provider hosting than on which is the server CMS recorded. It should also be resolved to terminate the contract. In case of cancellation of the contract by the franchisor, you must have a duty to emphasize its forward all documentation about clients Franchisor so that it can continue to provide services.

In the final section XX. as in almost every contract appear final provisions. It is good to negotiate in franchise contracts the arbitration clauses. This information is needed to protect the prior disclosure, which may in the case of arbitration can be provided much more effectively than in proceedings before the ordinary courts.

CONCLUSION AND PROPOSAL

The theory was first described in detail and explained as franchising, as a modern form of business. It was also thoroughly introduced to all the major positives and negatives associated with this business relationship connected. Studying franchising issues also pointed out the lack of legislation to this business and no proper regulation or at least defined really nowhere. It is hard to believe that the Czech law the term "franchising" is not anchored and that even this sort of business relationship formally in conflict with the law

on the Protection of competition. Although there is a granted block exemption, however, the author would consider sense to create appropriate legislation.

In a search focused on both the theoretical concept of franchising and the Czech franchise market, the author met with a lack of quality resources. The only publications are Mendelsohn or Řezníčková, Czech Franchise Association and several other possible considered as a correction value. Complicated is then the mapping of the market. Since franchising is not defined by law, in many cases it is not possible to determine even a relationship whether it is business partners or not. However, the author based on the available information, describes the recent developments on the domestic market franchise and suggested its possible division. This is in contrast to cutting other authors is not based on theoretical concepts, but from the practical observations and thus better reflects reality. Franchise concepts are defined here as "key" or "on brand ", according to the method of cooperation between the acquirer and licensor.

Small and medium-sized businesses are the driving force of any economy. It is therefore necessary that a huge group of people interested and appropriate care. If these entrepreneurs will have favorable conditions for the establishment and subsequent operation of their trades and crafts they will pay off everyone in this situation. Just difficulties with the establishment and subsequent early business are the biggest reason why many people ended their business in the first years after the foundation of his trade or business or even started. Probably never confess sufficient support from the state, but we find a helping hand from private entities.

This helping hand may be just franchising. With this contractual cooperation of two legally and economically independent entrepreneurs can create successful business and one who does not have sufficient financial background. Lack of funds at the beginning of business is the greatest obstruction establishment of small and medium enterprises. Banks and other financial institutions do not trust these new entrepreneurs and their concepts, projects or brands. For banks become interesting only when they have behind at least two years of successful business history. But how can we succeed with this new brand, company or product if it I do not know what to buy, build, etc.? If I am limited in spending on

advertising and promotion or sufficient quality machines, employees or other essential items, the chances of success are really small. One possible way out of this vicious circle can be just franchising. Novice entrepreneurs are offered a proven concept helping hand, both financial and human resources at the beginning of the collaboration and many other benefits. There are even franchising concepts, by which no entrance fees are required. It may therefore happen that a successful entrepreneur becomes even those who at the beginning of cooperation have been only a vision, efforts or a taste for business.

Before selecting a suitable franchisor a franchisee should make a careful consideration whether this project is suitable for him, whether he is financially available, whether in the field of competitive etc. Such questions should be asked by the franchisor as well, because one can spoil the reputation of businesses in the entire system. Franchising should also not become a mean to rehabilitate defunct of the company by revenues from the initial and ongoing charges. The biggest problem in my opinion is that the vast majority of population of the very concept. For this reason, often are unaware what options it offers. One reason may be that the actual Franchising is not governed by Czech law. Of course it is good that the entrepreneurs leave a wide contractual freedom, but I convinced that at least basic editing institutes deserve this. In a globalized world it seems to be no place for self-entrepreneurs. Franchising is one of the ways to succeed in the market and expand successful concept to other countries. Franchisees owe the success of support to the Franchisor who uses their commitment and knowledge of the local environment. This cooperation helped millions of people around the world to get a job. Hopefully, in the Czech Republic, these projects will increase both domestic as well as abroad. One such project is the project www.internet-centre.com, which has only one goal and that, if possible, to provide comprehensive services to Internet. Customer is offered a wide variety of services from which selects the most demanding customer. Franchisor offers prospective franchising stable background functioning society and requires only hundred percent efforts. At the beginning of co-operation is required only a small initial investment and the requirements for the establishment of the facility are also in Compared with other concepts minimal. I believe that this project is on the market in the Czech Republic that succeeds and thus ranks among the thousands they work projects. The aim of this work was to familiarize

the reader with the theoretical information franchising, the situation in the Czech Republic, find advantages and disadvantages franchising. On the practical case, I tried to show that although the disadvantages of this system, in this particular case, substantially more favorable than separate business and I succeeded in my opinion.

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List of tables

Annex number 1: The list of franchise concepts on the Czech market

Brand / Concept Type of activity

AG FOODS manufacture and distribution of soluble beverages
ADOMUS-REALITY OTHERWISE Services, real estate agents
Aerospinning Services and body care
Alois Dallmayr Automaten-service operation of vending machines
Alpine Pro Shop, Fashion Leisure
AMBIENTE RESTAURANTS GROUP services, restaurants, catering and fast food
ARDEN Real Estate Services, realtor
Art Property Services, real estate agents
AVEX BAUMARKT Business, hobby-market
Axid Services, real estate agents
Bageterie Boulevard service, restaurant, catering and fast food
BARUM Services, tire
Benzina Services, petrol stations
Bio-Services Cafés, restaurants, catering and fast food
BO Concept Store, furniture
Body Basics store, drugstore and cosmetics
Botanicus store, drugstore and cosmetics
Brněnky, retail store chain, retail grocery, healthy diet
Bushman Business, Fashion
The tea garden store, retail food, healthy diet
Premier Concrete Business, building
DANIEL'S DONUTS service, restaurant, catering and fast food
Decoland store, furniture
Good Tearoom service, restaurant, catering and fast food
Dr. Irena Eris Services, cosmetic studios

Brand / Concept Type of activity

Ecosystem services, heating
Envy Store, Fashion Leisure
ERA services, real estate agents
Hotels & Travel Services, Hospitality
EUROPE estate agency services, real estate agents
Farber Services, renovation
FLOP store, groceries
Fornetti service, restaurant, catering and fast food
Fornetti CAFFÉ service, restaurant, catering and fast food
FotoStar Gold line store, selling photo
FRAIS MONDE store, drugstore and cosmetics
Gold Pralines Shop, retail grocery, healthy diet
Hacienda Mexicana service, restaurant, catering and fast food
Hair Studio Kotlár Services, hairdresser
Helen Doron Early English Services, school / school of music
HERTZ Services, rental cars
Hilton Services, Hospitality
Holiday Inn Services, Hospitality
Hradeská bakery, Bakery
Yamaha Music School Services, school / school of music
Hudy Sport Shop, Fashion Leisure
CHIRŠ Services, real estate agents
INDECO Services, wardrobes
INVIA Services, Tourism
JULIA service, restaurant, catering and fast food
JYSK store, furniture
KA International Business, Supplies
Services Kindergarten, school / school of music

Brand / Concept Type of activity

Kolkovna Group Services, restaurant, catering and fast food
L'Occitane en Provence store, drugstore and cosmetics
LA BOTTEGA VECCHIA Business, sales of goods for gourmets
LABOTA Business, Fashion
Le Jardin des Fleurs Shop, selling flowers
Cheap Houses Services, construction of houses
M & M Property Services, real estate agents
Manufaktura Business, toiletries and cosmetics
Marks & Spencer store, fashion
McDonald's service, restaurant, catering and fast food
MEXX Reality Services, real estate agents
Affiche Mobile Services, rental of advertising space
MONDOPIZZA service, restaurant, catering and fast food
NATURHOUSE store, retail food, healthy diet
NBB National Business Brokers-Services, Insurance
NOVAK Butcher Shop, retail grocery, healthy diet
Novotel, IBIS, Mercure Services, Hospitality
OBI store, hobby-market
OP Prostejov, Pro-fashion Business, Fashion
OREA HOTELS Services, Hospitality
Original Marines Family Store Business, Fashion
OXALIS store, retail food, healthy diet
PANERIA service, restaurant, catering and fast food
Penam Bakery
PG CYBER Cade Services, cyber cafes
Picante service, restaurant, catering and fast food
Pietro Filipi Business, Fashion
POMPO Store, Toys

Brand / Concept Type of activity

PONT store, retail food, healthy diet

Portas Services, renovation

Potrefená Husa Staropramen Concept Services, restaurant, catering and fast food

Prink store, printing material

Profimed Business, dental care and medical devices

JOY store, drugstore and cosmetics

RE / MAX Services Czech Republic, real estate agents

REAL MORAVIA Services, real estate agents

REAL Spectrum Services, real estate agents

Real estate company MS Services, real estate agents

Realty OSKAR Services, real estate agents

REALLEX Services, real estate agents

Segafredo Espresso Services, restaurant, catering and fast food

Shell Services, petrol stations

SIXT Services, rental cars

Stavoodbyt building trade, building

SUBWAY service, restaurant, catering and fast food

Super Pet Business, Pet Supplies

Škorcová Services reality, real estate agents

Svejk Restaurant Services, restaurant, catering and fast food

TANA estate agency services, real estate agents

Tecnocasa Services, real estate agents

Telefónica O2 Services, Telecommunications

TETA Drugstore Business, toiletries and cosmetics

The PUB - Pilsner Unique Bar services, restaurant, catering and fast food

Ticket-com services, advertising on the back of cash receipts

Brand / Concept Type of activity

TICN Services, Investment Education

TIME OUT Business, Fashion Leisure

Town & Country House Services, construction of houses

UNIGLOBE Services, Tourism

VITALAND store, retail food, healthy diet

V-PLAST Business, floor coverings

WELLE Services, renovation

XANTEA store, drugstore and cosmetics

Yves Rocher store, drugstore and cosmetics

Green Star Shop, dental care and medical devices

Zumo service, restaurant, catering and fast food

Source: Created by the author / Czech Franchise Association, 2011

Annex number 2: Sample Franchising Contract in Czech

Franchisová smlouva

uzavřená dle § 269 odst.2 zákona číslo 513/1991 Sb.

I.

Smluvní strany

Poskytovatel: XXXXXXXXXXXX

Adresa

Poštovní směrovací číslo, Město

IČ: XXXXXXXXX

DIČ: CZXXXXXXXX

zapsaný v OR vedeném u KS v Brně oddíl C vložka 30644

zastoupený: Jméno -- jednatelem

bankovní spojení: KB, číslo účtu

dále jen franchisor

a

Příjemce: XXXXXXXXXXXX

Adresa

Poštovní směrovací číslo, Město

IČ: XXXXXXXXX

DIČ: CZXXXXXXXX

zapsaný v OR vedeném u KS v Brně oddíl C vložka 30644

zastoupený: Jméno -- jednatelem

bankovní spojení: KB, číslo účtu

dále jen franchisant

uzavřeli dne 20.2.2010 tuto franchisovou smlouvu.

II.

Franchisor poskytuje za úplaty právo franchisantovi nabízet a prodávat produkty nabízené na internetové adrese franchisora <http://www.internet-centre.com>

Těmito produkty se zejména rozumí zápisy do katalogu firem a reklamní prostory na internetovém portálu vedeném na internetové adrese www.contacts.com. Dále internetové prezentace, tzv. www stránky spolu s nástrojem na správu obsahu webu Typo3, tzv. publikačním systémem. Službu web hostingu, která je podmínkou provozu www stránek. V neposlední řadě veškeré grafické a kresličské práce. Všechny tyto služby je franchisant povinen nabízet dle cen uvedených v platném ceníku vydávaném franchisorem. Bližší specifikaci obsahuje franchisový manuál.

III.

Franchisant je povinen při své činnosti vystupovat pod hlavičkou www.internet-centre.com a dodržovat pravidla franchisora pro jednotné vystupování na trhu.

Při porušení povinností vyplývajících z tohoto ustanovení je franchisor oprávně jednostranně odstoupit od této smlouvy. Výpovědní doba se sjednává na tři měsíce od doručení výpovědi franchisantovi.

IV.

Franchisor je povinen umožnit franchisantovi podnikat pod znaky franchisového systému uvedenými v článku II. této smlouvy, poskytnout franchisantovi po celou dobu platnosti této smlouvy nezbytné a důležité informace k úspěšnému vedení franchisového podniku.

Franchisor je povinen pravidelně provádět školení zaměstnanců franchisanta.

Franchisor je povinen být franchisantovi k dispozici pro jeho konzultace ohledně franchisového projektu.

Franchisor se zavazuje, že franchisantovi při podpisu smlouvy předá jedno vyhotovení manuálu a že mu bude bez zbytečného prodlení dodávat dodatky tohoto manuálu a nové verze tak, aby franchisant měl neustále jeho aktuální znění. Zároveň se zavazuje, že bude franchisantovi vždy řádně a včas poskytovat dle tohoto manuálu veškeré služby a plnit svoje povinnosti.

Franchisor je povinen umožnit franchisantovi plně využívat jeho zaměstnanců a technického zázemí k řádnému provádění zakázek.

Franchisor je povinen seznámit franchisanta se všemi dodavateli, zaměstnanci a spolupracovníky tak, aby zakázky byly prováděny jednotným systémem.

Franchisor je povinen na svoje náklady jedenkrát ročně uspořádat výroční setkání všech členů franchisové sítě jejímž cílem bude zhodnocení dosavadního podnikání a předávání vzájemných zkušeností jednotlivých členů.

V.

Franchisor je povinen po dobu platnosti této smlouvy udržovat v platnosti veškerá nehmotná práva týkající se smluvní spolupráce, zejména doménová jména a licence k softwarovým programům a zajistit jejich prodloužení, pokud to právní úprava vyžaduje.

Franchisor je současně povinen chovat se tak, aby nezpůsobil žádné škody, neohrozil nehmotné statky, popřípadě aby nedošlo k zániku jeho vlastnického nebo užívacího práva k těmto statkům.

Obě smluvní strany se zavazují k oboustranné podpoře a obraně v této smlouvě popsaného franchisového systému. Franchisor je povinen informovat franchisanta o všech hrozících nebo nastupujících problémech a o způsobu jejich řešení.

VI.

Franchisor se zavazuje, že na území vymezeném hranicemi Jihomoravského kraje nebude sám provozovat a ani jinému franchisantovi neposkytne franchisovou licenci. Zároveň se zavazuje neumožnit jiným osobám provozovat podnikatelskou činnost s využitím některého z nehmotných statků specifikovaných v této smlouvě či jiných prvků a znaků tvořících franchisový systém.

V případě, že franchisor bude v regionu sousedícím s regionem franchisanta poskytovat franchisovou licenci, je o tomto svém záměru povinen franchisanta informovat. Tato informace musí být učiněna písemně a musí být doručena franchisantovi nejméně 45 dnů před první uveřejněním nabídky. Franchisant má právo účastnit se výběrového řízení na poskytnutí této franchisové licence.

VII.

Franchisor je povinen předat franchisantovi nejpozději při podpisu této smlouvy propagační materiály, katalogy a prospekty nabízených služeb, předtištěné objednávky a smlouvy, přihlašovací údaje a heslo pro přístup do databáze klientů franchisora.

Franchisor si vyhrazuje, že výše uvedené materiály zůstávají v jeho vlastnictví do té doby, než budou v rámci řádného obchodního provozu předány zákazníkům. Franchisant se

zavazuje chránit přihlašovací údaje a hesla pro přístup do databáze proti jejich zneužití třetími osobami.

Franchisor se zavazuje po dobu platnosti této smlouvy propagovat franchisový systém a jeho název dle svého uvážení s tím, že je povinen vzít v úvahu informace od jednotlivých franchisantů zapojených do franchisové sítě.

Franchisor se zavazuje, že před zahájením činnosti franchisanta v jeho regionu provede propagaci otevření tohoto podniku, a to prostředky dle svého uvážení tak, aby s tímto byla řádně a včas obeznámena co nejširší veřejnost.

Franchisor se zavazuje prostředky získané od jednotlivých franchisantů jako příspěvek na reklamu soustředit na jednom účtu a použít je výhradně na tyto účely. Jednou v roce je franchisor povinen franchisantovi předložit ověřené vyúčtování jakým způsobem byly tyto prostředky využity.

VIII.

Franchisor se zavazuje vyvíjet maximální úsilí vedoucí k dalšímu rozvíjení a zlepšování franchisového konceptu a metody. Franchisor je povinen o všech zlepšeních franchisanta neprodleně informovat. Pokud je zlepšení takového charakteru, že vyžaduje školení franchisanta a jeho zaměstnanců, je franchisor povinen toto školení provést nejpozději do jednoho měsíce od provedení takové změny.

Franchisor je oprávněn doplňovat a měnit systém podnikání vzhledem k nově získaným zkušenostem a je povinen o těchto krocích franchisanta neprodleně informovat. Dále si vyhrazuje právo rozšířit spektrum nabízených služeb v průběhu smluvní spolupráce. V takovém případě se smluvní strany zavazují uzavřít dodatek k této smlouvě ve lhůtě 1 měsíce ode dne písemného oznámení takové skutečnosti franchisantovi. Tento dodatek bude obsahovat úplnou a přesnou specifikaci nových služeb s tím, že podléhají smluvnímu režimu stávající franchisové smlouvy ve znění jejího dodatku.

IX.

Franchisor se zavazuje nahradit franchisantovi škodu vzniklou v souvislosti s provozováním franchisového podniku, která franchisantovi vznikla úmyslným zaviněním franchisora nebo prokázaným porušením práv k nehmotným statkům ze strany franchisora a to jen v případě, že tato škoda nevznikla z porušení této smlouvy ze strany franchisanta.

Franchisor se zavazuje mít uzavřené pojištění z odpovědnosti za škodu podnikatele a průmyslu.

X.

Smluvní straně prohlašují, že franchisant zůstává po uzavření franchisové smlouvy právně i ekonomicky samostatným podnikatelem a není oprávněn zastupovat franchisora ani vystupovat jako jeho zprostředkovatel.

Franchisant je povinen při veškerém provozu souvisejícím s chodem franchisového podniku vystupovat jako samostatný podnikatel. Dále se zavazuje, že bude užívat povolený název jako své jediné a hlavní obchodní označení dle podmínek uvedených v této smlouvě.

Franchisant je povinen uvádět na veškeré korespondenci, fakturách, smlouvách a jiných dokumentech, že je samostatným podnikatelem.

Franchisant se zavazuje v rámci franchisové sítě spolupracovat s ostatními franchisanty i franchisorem. Dále se zavazuje, že neprovede bez předchozího písemného souhlasu změnu sídla svého podniku.

XI.

Franchisant se zavazuje, že bez řádného školení sebe a svých zaměstnanců nezačne provozovat franchisový podnik. Dále je povinen účastnit se každého školení, na kterém franchisor představuje a školí nové produkty.

Franchisant se zavazuje, že pro své zaměstnance bude pořádat vnitřní školení ve svém franchisovém podniku s cílem zajistit kompetentnost a vysokou profesionalitu zaměstnanců v plnění pracovních povinností.

XII.

Franchisant je povinen provozovat franchisový podnik v souladu se všemi platnými právními předpisy a nařízeními. Dále se zavazuje, že po dobu platnosti této smlouvy bude dodržovat franchisový koncept. Změny franchisového konceptu je povinen provést ihned po písemném oznámení.

Franchisant se zavazuje, že po dobu platnosti této smlouvy bude chránit dobrou pověst svého franchisového podniku a celé franchisové sítě.

Franchisant se zavazuje, že bude při své činnosti dodržovat veškerá pravidla stanovená pro franchisovou síť, zejména dbát na to, aby byl dodržován jednotný systém prodeje služeb a byla tak ochráněna dobrá pověst franchisanta.

Franchisant se zavazuje zajistit, aby všichni jeho zaměstnanci zapojení do franchisové sítě poskytovali zákazníkům služby na takové úrovni, aby byla ochráněna dobrá pověst franchisanta.

Franchisant se zavazuje nabízet a prodávat služby výhradně pro franchisora. Jiné služby, je oprávněn nabízet pouze se souhlasem franchisora.

Franchisant se zavazuje, že smluvní služby bude prodávat pouze konečným zákazníkům.

XIII.

Franchisant se zavazuje pravidelně, to je jedenkrát měsíčně, informovat franchisora o vývoji jeho obchodů a o celkové situaci na trhu v jeho oblasti.

Franchisant se zavazuje vést přesnou a podrobnou evidenci o svých zákaznících a je povinen ji na požádání předložit franchisorovi k nahlédnutí.

XIV.

Franchisant je oprávněn používat know-how, systém a obchodní názvy franchisora pouze při výkonu své činnosti v rámci franchisového systému, na smluvně vymezeném území a pouze po dobu platnosti této smlouvy.

Franchisant je povinen opatřit všechny propagační jakož i provozní materiály, týkající se franchisového podniku, informacemi dle pokynů franchisora.

Franchisant se zavazuje neprodleně informovat franchisora o každém potenciálním porušení či ohrožení jeho nehmotných práv a je povinen se v případě takového porušení řídit pokyny franchisora.

Franchisant není oprávněn jakýmkoliv způsobem převést jakákoliv práva nebo povinnosti vyplývající pro něj z této smlouvy, bez předchozího písemného souhlasu franchisora.

Franchisant se zavazuje, že nesdělí třetí osobě žádné informace, které se dozvěděl v průběhu smluvní spolupráce s franchisorem. Tato povinnost trvá i po dobu 24 měsíců po ukončení franchisové smlouvy.

Franchisant se zavazuje, že po ukončení této smlouvy nebude užívat nehmotné statky franchisora pro své ani cizí podnikatelské aktivity.

XV.

Franchisant se zavazuje provádět reklamu a jinou propagaci jeho podniku v souladu s pokyny franchisanta a znaky celé franchisové sítě. Materiály dodané franchisorem k propagaci se franchisant zavazuje použít pouze k těmto určeným účelům.

Franchisant se zavazuje předkládat veškeré propagační a reklamní materiály franchisorovi ke schválení. Bez jeho souhlasu není oprávněn tyto materiály použít.

Franchisant se zavazuje, že minimálně 5% z hrubého obrátu svého podniku za kalendářní rok věnuje výlučně na propagační a reklamní účely. Zároveň se zavazuje účastnit se všech celosíťových reklamních a propagačních akcí pořádaných franchisorem spolu s ostatními franchisanty zapojenými do franchisové sítě.

XVI.

Franchisant se zavazuje řádně a včas to je do měsíce ode dne podpisu této smlouvy zaplatit franchisový poplatek 100.000,- Kč slovy stotisíckorunčeských převodem na franchisorův účet.

Franchisant bere na vědomí, že tento poplatek je jednorázovým vstupním poplatkem za poskytnutím franchisové licence. Zároveň se zavazuje řádně a včas to je k 15. dni každého kalendářního měsíce platit průběžný poplatek za užívání technické zázemí a práv franchisora ve výši 40% z hrubého obrátu svého franchisového podniku za kalendářní měsíc.

XVII.

Franchisant se zavazuje, že nebude nabývat majetkové podíly ani jinak působit ve společnostech, které by mohly být v přímém či nepřímém konkurenčním postavení vůči franchisorovi. Zakazuje se i forma tichého společenství v takovýchto společnostech.

Franchisant se zavazuje, že nebude provádět mimo území Jihomoravského kraje marketingovou či jinou činnost, kterou by aktivně získával zákazníky z tohoto jiného území.

Franchisant je oprávněn provádět subfranchising jen se souhlasem franchisora. To znamená, že je oprávněn poskytovat franchisovou licenci dle této smlouvy dalším franchisantům, ale musí si vyžádat předchozí písemný souhlas franchisora. Současně není oprávněn bez předchozího písemného souhlasu franchisora převést svůj podnik na třetí osobu. V tomto případě se sjednává předkupní práva franchisora na tento franchisový podnik.

XVIII.

Franchisant je povinen vyhotovovat a uchovávat veškeré doklady, které jsou nezbytné pro řádné a úplné vedení účetnictví. Franchisant podpisem této smlouvy souhlasí s tím, aby bylo jeho účetnictví přezkoumatelné auditorem, který bude vybrán franchisorem.

Franchisant se zavazuje výsledky tohoto auditu na požádání předložit franchisorovi ke kontrole.

Franchisant se zavazuje předkládat účetní závěrku vždy nejpozději do 15-ti dnů od jejího zhotovení. Zároveň uděluje souhlas franchisorovi ke vstupu a kontrole jeho franchisového podniku.

Franchisant se zavazuje uzavřít pojištění nutné pro řádný provoz jeho franchisového podniku.

XIX.

Tato smlouva se uzavírá na dobu určitou 5-ti let ode dne podpisu oběma smluvními stranami. Franchisant má přednostní právo na její další 5-ti leté prodloužení, pokud v průběhu smluvní spolupráce hrubým způsobem neporuší tuto smlouvu.

Franchisant má právo na odstoupení od smlouvy, pokud franchisor po dobu smluvní spolupráce i přes písemné upozornění neplní závazky z této smlouvy plynoucí nebo podstatným způsobem porušuje některý z článků této smlouvy. V případě odstoupení od smlouvy ze strany franchisanta je franchisant povinen franchisorovi předat veškerou dokumentaci související s provozem franchisantova podniku jakož i veškeré údaje o jeho zákaznících.

Franchisor má právo na odstoupení od smlouvy, pokud franchisant po dobu smluvní spolupráce i přes písemné upozornění neplní závazky z této smlouvy plynoucí nebo podstatným způsobem porušuje některý z článků této smlouvy. V případě odstoupení od smlouvy ze strany franchisora je franchisant povinen franchisorovi předat veškerou dokumentaci související s provozem franchisantova podniku jakož i veškeré údaje o jeho zákaznících. Vstupní ani průběžné franchisové poplatky se v takovém případě nevrací. Franchisor má právo po odstoupení od smlouvy v dané oblasti provozovat franchisový podnik sám nebo poskytnout franchisu jinému franchisantovi.

XX.

Oznámení podle této smlouvy nebo v souvislosti s ní budou považována za doručená příslušnému níže uvedenému adresátovi, pokud bylo doručeno osobně či zasláno faxem, a třetím dnem po odeslání, pokud bylo odesláno doporučeně poštou nebo kurýrní službou.

Tato smlouva obsahuje úplnou dohodu stran a neexistují jiná ujednání, ústní či písemná, která by upravovala předmět této smlouvy, nebo, pokud taková ujednání existovala, jsou tímto zrušena a nahrazena touto smlouvou. Jakákoliv změna či úprava této smlouvy musí mít písemnou formu a být podepsána oběma stranami. Autentičnost této smlouvy potvrzují svým podpisem.

Smluvní strany prohlašují, že smlouvy přečetli, bezvýhradně souhlasí se všemi jejími ustanoveními, že ji neuzavřeli pod nátlakem a za nápadně nevýhodných podmínek ani pro jednu smluvní stranu.

Pokud se některé ustanovení smlouvy stane neplatným, ostatní ustanovení této smlouvy zůstávají v platnosti.

Všechny spory vznikající z této smlouvy a v souvislosti s ní budou rozhodovány s konečnou platností u Rozhodčího soudu při Hospodářské komoře České republiky a Agrární komoře České republiky podle jeho Řádu a Pravidel jedním rozhodcem jmenovaným předsedou Rozhodčího soudu.

Tato smlouva se vyhotovuje ve třech vyhotoveních, z nichž franchisor obdrží dvě a franchisant jedno vyhotovení.

Ve XXX dne.....

Source: Created by the author / Czech Franchise Association, 2011