

Franchising is simply a method of distributing goods and services, and historically has been used in almost every business in sector. The Franchisor/Franchisee relationship is unique among commercial relationships. It differs markedly from an employment, agency or independent contractor relationship: Franchisor exerts much greater control over Franchisee than is typically found in an independent contractor relationship, yet Franchisee still has far more independence than is typically found in an employment or agency relationship.

Franchising may be divided into two broad categories, commonly known as "product franchising" and "business format franchising".

In a product franchise, Franchisor licenses Franchisee to distribute Franchisor's Trade-marked goods within an exclusive geographic distribution area. Franchisee is usually prohibited from selling outside that area. Franchisor offers only limited assistance and imposes only minor controls on Franchisee's business operation, each Franchisee being free to adopt its own business style and distribution technique. As a result, the public perceives Franchisees as independent owner/operators, whose only link to Franchisor is the brand name of the goods being distributed. Automobiles, soft drinks, gasoline, consumer appliances and other goods which require a large degree of pre-sale or post-sale service are especially well-suited to distribution by product franchising.

The main differences between a product franchise and a more traditional distribution arrangement (for references for these types of traditional distribution arrangements please see paragraphs 4 and 5 under the heading "WHAT IS THE DIFFERENCE BETWEEN FRANCHISING AND OTHER TYPES OF DISTRIBUTION AGREEMENTS?") are the greater identification of Franchisee with the Trade-mark, the greater level of support services provided to Franchisee and the greater concentration of effort on selling Franchisor's products.

In a business format franchise, Franchisor licenses Franchisee:

- (a) to identify the Franchised Business by Franchisor's principal Trade-mark;
- (b) to distribute goods or services identified with Franchisor's Trade-mark; and
- (c) to use a comprehensive business format, operating system, marketing plan and strategy which is owned by Franchisor.

The Franchisor usually provides Franchisee with comprehensive support, including site analysis and selection, leasing and construction services, financing services, fixturing and stocking, training, opening assistance and other initial services and quality control and operating standards, volume purchasing and advertising, advice and guidance and other continuing support in all aspects of operating the business. In a business format franchise there is an almost complete merging of the business identity of Franchisee and Franchisor, so that the public perceives each franchised outlet as part of a larger chain of identical outlets, all offering the same high quality goods and services. To ensure that this public image is maintained Franchisor imposes extensive continuing controls on Franchisee's business operation. Thus business format franchising is characterized by an intimate ongoing business relationship between Franchisor and Franchisee.

