

The breadth of the Act's scope is nowhere more apparent than in its definition of "franchise", which is defined (in subsection 1(1) of the Act) to include a right to engage in a business:

- where Franchisee is required, by contract or otherwise, to make a payment or continuing payments, whether direct or indirect, or a commitment to make such payments, to Franchisor, in the course of operating the business OR as a condition of acquiring the franchise or commencing operations; and
- in which:
  - Franchisor grants Franchisee the right to sell, offer for sale or distribute goods or services substantially associated with Franchisor's Trade-mark, service mark, trade name, logo or advertising or other commercial symbol; and
  - Franchisor exercises significant control over, or offers significant assistance in, Franchisee's method of operation, including building design and furnishings, locations, business organization, marketing techniques or training.

Under this definition, any business that involves the sale or distribution of branded goods or services is potentially a "franchise" for the purposes of the Act. Note, that there is no express exception from the payment requirement for purchases of reasonable amounts of inventory at bona fide wholesale prices. It is also unclear how much control or assistance will be considered "significant" for the purposes of the latter part of the definition.

It also does not matter that the parties to a given commercial arrangement may each have intended not to engage in franchising (instead, regarding their relationship as a mere license or distributorship) – what they choose to call their arrangement is irrelevant. Unless the parties ensure that their commercial arrangement is not a "franchise" as defined, they may have imposed upon them the respective rights and obligations provided by the Act.

The definition of "franchise" also expressly brings product distribution schemes, such as sales from vending machines and display racks, under the purview of the Act. Pursuant to s. 1(1)(b) of the Act, "franchise" also means a right to engage in a business where Franchisee is required to make a payment or continuing payments in which representational or distribution rights are granted to sell, offer for sale or distribute goods or services supplied by Franchisor or its designated supplier, where Franchisor (or its associate or designee) provides location assistance. Under this definition, there is no need for association with Franchisor's Trade-marks or other intellectual property. Nor is there any requirement for significant control or assistance.

The following commercial relationships are covered by the Act:

- (a) Sections 1 to 4, 8(1) and 8(2) and 9 to 16 of the Act apply to any:
  - i) franchise agreement, including any renewal or extension of a franchise agreement; or
  - ii) a business operated under such an agreement, renewal or extension if the business is, or is to be, operated partly or wholly in Ontario entered into on or after July 1, 2000.

- (b) Sections 3 and 4, clause 5 (7) (d) and sections 9, 11 and 12 apply to any:
  - i) franchise agreement; or
  - ii) any business operated under such an agreement, if the business operated by Franchisee under the franchise agreement is, or is to be, operated partly or wholly in Ontario; and  
entered into before or after the coming into force of this section, and
  
- (c) Sections 5, 6, 7 and 8(3) of the Act apply to any:
  - i) franchise agreement, renewal or extension of a franchise agreement; or
  - ii) a business operated under such an agreement, renewal or extension if the business is, or is to be, operated partly or wholly in Ontario  
entered into on or after January 31, 2001.