

## **FRANCHISING AND ITS APPLICATIONS IN SLOVAK REPUBLIC**

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**ABSTRACT:** *The paper focus on characteristic of franchising as the opportunity for firms to start the business. Franchising is an agreement in which franchisees receive the right to operate a business under the franchisor's trade name in exchange for paying a fee and operating according to a specific plan (Flităr, 2003). In other words, this method of distribution is based on a contract in which the franchisor gives franchisees the right to operate a business under its trade name. In exchange, the franchisees pay a specific amount and operate the business according to a plan specified by the franchisor (Flităr, 2003). We also analyse the situation in Slovak republic where franchising is still used not so often as in the other EU countries.*

**KEY WORDS:** *franchising; code of ethics; franchisor; franchisee*

**JEL CLASSIFICATION:** *L14*

### **1. INTRODUCTION**

The globalization of the business world gives special opportunities for firms all over the world. However, co-operation between firms from different countries or different cultures did not always lead to the anticipated results because differences concerning partners' way of thinking were neglected.

Knowing the variety of thinking structures facilitates mutual understanding between persons involved in activities that outrun the borders of a country or the limits of a culture (Dima & Man, 2001). One of these opportunities for firms is also the franchising.

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Franchising is a particular form of associated commerce, in others words a business partnership between a franchisor and his independent partners - the franchisees. For further explanation and specification of this term, we are mentioning the definition, which we could find on the beginning of The European Code of Ethics for Franchising, where is listed the following (European Franchise Federation, 2008).

"Franchising is a system of marketing goods and/or services and/or technology, which is based upon a close and ongoing collaboration between legally and financially separate and independent undertakings, the franchisor and its individual franchisees, where by the franchisor grants its individual franchisee the right, and imposes the obligation, to conduct a business in accordance with the franchisor's concept.

The right entitles and compels the individual franchisee, in exchange for a direct or indirect financial consideration, to use the franchisor's trade name, and/or trademark and/or service mark, know-how<sup>1</sup>, business and technical methods, procedural system, and other industrial and/or intellectual property rights, supported by continuing provision of commercial and technical assistance, within the framework and for the term of a written franchise agreement, concluded between parties for this purpose".

Franchising is most suitable for businesses where it is possible to spell out rules for day-to-day operations. Thus, hotels, print-shops, fast-food restaurants, oil-change facilities are often franchises. (Flităr, 2003) In addition we find office supplies, clothing, hairdressers, hardware (Baron & Dobre-Baron, 2003) franchising concepts etc.

While franchising is a relatively structured type of channel, creative marketers have found ways to distinguish their franchise to provide extra value. For example, when John Tillman bought a McDonald's restaurant near the University of Houston, he wanted to meet the needs of the university community. He set up a room with four copiers, three computers, two laser printers a fax machine and a machine for binding reports.

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<sup>1</sup> "Know-how" means a body of non patented practical information, resulting from experience and testing by the Franchisor, which is secret, substantial and identified;

- "secret" means that the know-how, as a body or in the precise configuration and assembly of its components, is not generally known or easily accessible; it is not limited in the narrow sense that each individual component of the know-how should be totally unknown or unobtainable outside the Franchisor's business;
- "substantial" means that the know-how includes information which is indispensable to the franchisee for the use, sale or resale of the contract goods or services, in particular for the presentation of goods for sale, the processing of goods in connection with the provision of services, methods of dealing with customers, and administration and financial management; the know-how must be useful for the Franchisee by being capable, at the date of conclusion of the agreement, of improving the competitive position of the Franchisee, in particular by improving the Franchisee's performance or helping it to enter a new market.
- "identified" means that the know-how must be described in a sufficiently comprehensive manner so as to make it possible to verify that it fulfils the criteria of secrecy and substantiality; the description of the know-how can either be set out in the franchise agreement or in a separate document or recorded in any other appropriate form.

In another room, Tillman installed a several video games. Inside the restaurant area, he used plenty of neon and gas to create an atmosphere appealing to his student customers (Flităr, 2003).

It results from given definitions that the term franchising does not have exactly specification and everybody can imagine something else under that term. In spite of this fact, exactly the definition descends from The European Code of Ethics for Franchising considers to be the most frequently applicable in the given section, because it enriches the internal culture not only the members of the European Franchise Federation (EFF)<sup>2</sup>, but also the countries, of which the national franchise associations aren't the members of the EFF.

The contents of that Code is not limited only on above-mentioned definition of the term "franchising", of what evidence are the following facts (European Franchise Federation, 2008):

- the Code of Ethics presents the practical set of main principles of fair behaviour for the franchising parties:
  - both parties shall exercise fairness in their dealings with each other;
  - parties should resolve complaints, grievances and disputes with good faith and goodwill through fair and reasonable direct communication and negotiation;
- it determinates principles and obligations by franchisees obtaining:
  - franchisor should select and accept as individual franchisees only those who, upon reasonable investigation, appear to possess the basic skills, education, personal qualities and financial resources sufficient to carry on the franchised business;
- obligations of the franchisor<sup>3</sup>:
  - to operate a business concept with success, for a reasonable time and in at least one pilot unit before starting its franchise network;
  - to be the owner, or have legal rights to the use, of its network's trade name, trade mark or other distinguishing identification;
  - to provide the individual franchisee with initial training and continuing commercial and/or technical assistance during the entire life of the agreement;
- obligations of the franchisee<sup>4</sup>:
  - to devote its best endeavours to the growth of the franchise business and to the maintenance of the common identity and reputation of the franchise network;

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<sup>2</sup> *Austrian Franchise Association; Belgian Franchise Federation; British Franchise Association; Croatian Association For Franchising; Czech Franchise Association; Danish Franchise Association; Finnish Franchising Association; French Franchise Federation; German Franchise Association; Greek Franchise Association; Hungarian Franchise Association; Italian Franchise Association; Netherlands Franchise Association; Portuguese Franchise Association; Slovenian Franchise Association; Swedish Franchise Association; Swiss Franchise Association; Turkish National Franchise Association*

<sup>3</sup> *The franchisor is the initiator of a franchise network, composed of itself and its individual franchisees, of which the franchisor is the long-term guardian.*

<sup>4</sup> *The franchisee is the franchise recipient, the client and the partner of the franchisor.*

- to supply the franchisor with verifiable operating data to facilitate the determination of performance and the financial statements necessary for effective management guidance, and allow the franchisor, and/or its agents, to have access to the individual franchisee's premises and records at the franchisor's request and at reasonable times;
- to not disclose to third parties the know-how provided by the franchisor, neither during nor after termination of the agreement;
- structure and contents of the franchise agreement:
  - the franchise agreement shall comply with the National law, European community law and the Code of Ethics and any national Extensions thereto;
  - the agreement shall reflect the interests of the members of the franchised network in protecting the franchisor's industrial and intellectual property rights and in maintaining the common identity and reputation of the franchised network;
  - all agreements and all contractual arrangements in connection with the franchise relationship shall be written in or translated by a sworn translator into the official language of the country the individual franchisee is established in, and signed agreements shall be given immediately to the individual franchisee;
  - the franchise agreement shall set forth without ambiguity, the respective obligations and responsibilities of the parties and all other material terms of the relationship;
  - the essential minimum terms of the agreement shall be the following:
    - the rights granted to the franchisor;
    - the rights granted to the individual franchisee;
    - the goods and/or services to be provided to the individual franchisee;
    - the obligations of the franchisor;
    - the obligations of the individual franchisee;
    - the terms of payment by the individual franchisee;
    - the duration of the agreement which should be long enough to allow individual franchisees to amortise their initial investments specific to the franchise;
    - the basis for any renewal of the agreement the terms upon which the individual franchisee may sell or transfer the franchised business and the franchisor's possible pre-emption rights in this respect;
    - provisions relevant to the use by the individual franchisee of the franchisor's distinctive signs, trade name, trademark, service mark, store sign, logo or other distinguishing identification;
    - the franchisor's right to adapt the franchise system to new or changed methods;

- provisions for termination of the agreement provisions for surrendering promptly upon termination of the franchise agreement any tangible and intangible property belonging to the franchisor or other owner thereof.

Despite the large determination of the franchise system, in regard of characteristics listed above, it is possible to observe, that The European Code of Ethics for Franchising as unofficial normative act doesn't substitute the national laws or the laws of the European Union.

The European Code is obligatory namely only for the franchise federation members and its breach is related with the sanction of member exclusion from the national franchise association. Moreover with that exclusion is usually related the loss of good name and image, what is for each enterprise more worse as only the exclusion from the association councils. (European Franchise Federation, 2008)

## 2. LEGISLATION RELEVANT TO FRANCHISING

Nowadays only a few States have franchising specific legislation (table 1, 2). There is no Slovak legislation specific to franchising. Franchising agreements are treated as commercial contracts and regulated by the Commercial Code.

The missing legislation substitute The Slovak Code of Ethics for Franchising, which is de facto identical with The European Code of Ethics for Franchising. Even though the legislative determination of franchising is not developed, smaller steps in given area realize the Slovak Franchise Association, of which the main aim is to create the most ideal franchise conditions for franchisors and franchisees.

**Table 1. EU member States which directly affects franchising**

Country	Year of legislation adoption
Belgium	2006
France	1989
Italy	2004
Lithuania	2001
Spain	1996
Sweden	2006

Source: European Franchise Federation, National Regulation by country, 2008  
<http://www.eff-franchise.com/spip.php?rubrique21>

## 3. FRANCHISING IN SLOVAK REPUBLIC

Beginning of franchising development in Slovak republic from the year 1990 is connected with the transformation of the economy. The unawareness of the franchising principles, absence of experiences, limited approach to the information about franchising were the disincentive of the increased use of franchising.

**Table 2. Non-EU countries which directly affects franchising**

Country	Year of legislation adoption
Albania	1994
Australia	1974
Brazil	1994
China	2007
Indonesia	1997
Korea	1997
Malaysia	1999
Mexico	1991
Romania	1997
Russia	1996
Ukraine	2004
USA	1979
Vietnam	2006

Source: European Franchise Federation, National Regulation by country, 2008  
<http://www.eff-franchise.com/spip.php?rubrique21>

It is possible to estimate that the Slovak franchising market is formed by circa 40 companies. Exact evidence of franchising concepts in Slovak republic doesn't exist.

These companies are mainly in:

- gastronomy/fast-food (table 3);
- office supplies (Office 1 Superstore);
- textile sale (Mango, Pull and Bear);
- food store (Coop Jednota, Samoška, POTRAVINY.eu);
- hairdressing (Frederic Moréno);
- accommodation service (Holiday Inn, Accor, Best Western).

Franchising or its components is used also by gasoline sale (Slovnaft) and by car rental (AVIS).

In comparison with other countries is the use of franchising in conditions of Slovak republic in much smaller range. Also here we can find the some Slovak franchising concepts. The most known in gastronomy is Pizza Mizza / Pizza Mizza Express concepts, realized by GastroNet. First Pizza Mizza restaurant was opened 1. 1. 2004 in Bratislava. This concept has 8 outlets in Slovak republic and also prepares the opening of other 4 outlets in the 2010. In the area of gastronomy / fast-food franchising concepts has more outlets only world-wide known McDonald's and Fornetti, which sell mostly the bakery products. A lot of franchising concepts has in the Slovak republic only 1 or 2 outlets.

In the area of real property has the strongest position international franchising concept RE/MAX with 60 outlets. The competitor in this area is Slovak concept Direct Real with 17 outlets.

**Table 3. Summary of franchise gastronomy/fast-food concepts in Slovak republic**

Franchising concept	Number of outlets
Fornetti	250
McDonald's	20
Pizza Mizza / Pizza Mizza EXPRES	7 / 1
KFC	6
Subway	6
PizzaHut	3
Staropramen - Trafená hus	3
Mr. KEBAB	2
Nordsee	2
Burger King	1
Hacienda Mexicana	1
Papa Chicken	1
Taco Rey	1

Source: own study

#### 4. CONCLUSION

By the analysis of franchising usage in the Slovak republic we found out, that the most franchising concepts is in the area of gastronomy and fast food.

It is possible to allege, that in the still more demanding market environment, the franchising represent the appropriate manner how to meet the market needs and customer requirements. Franchising helps to hold and possibly to extent the market position and to pass in the competitive environment through verified conception and know-how, through training programs and consultancy from the franchisor.

On the end of our paper we quote the franchising assets for Slovak economy:

- increase and improvement of goods and services quality;
- improvement of approach to customer;
- increase of competitiveness through the franchisor skills, know-how and technologies;
- more cooperation possibilities inside of franchising network;
- new working places - employment rate growth.

Even though in the Slovak republic is no franchising specific legislation and similar situation is in the most countries, the environment for franchising in the Slovak republic is very favourable. The fact that the legislation is fully compatible with EU law, mean optimal situation, law security and the offer for expansion of franchising concepts also in the Slovak republic.

The use of franchising in conditions of Slovak republic is in much smaller range as in other countries, for that reason the Slovak republic still offers a lot of opportunities and benefits to start franchise business.

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