

Franchising: Is it the right option for your business?

By Denice A. Gierach -- As published in The Business Ledger – November 29, 2010

Many times a business person develops a concept that can be sold through an expanded network of franchises. By using a franchise system, a company is able to distribute the products or services to its network using the franchisee's capital to do so.

This allows your concept to get into more states than your own business capital might have allowed. This is beneficial to the franchisee, as well, as it allows the franchisees to develop and grow a business in a new area and be responsible for the day to day management of that location.

Just about any type of business can be franchised, as this model of business development is an extremely flexible model. One of the franchise associations touts that over 75 different industries use franchising as a method for a company's expansion.

The franchise can be a product or a service, retail or wholesale. What you need to determine is if the franchise business will appeal to buyers as a good business investment over other potential stand alone businesses that they could buy in the marketplace. The franchise must have significant demand and an appropriate business plan to make it profitable for the potential franchisee.

Franchising a business comes with a cost though. You will need to work with franchise lawyers, consultants, certified public accountants and franchise development companies. Although you might want to use these professionals to save money, franchising is not a do-it-yourself project. There are numerous pitfalls that you will want to avoid with having a good team established to get the project done right.

While you may have a concept and you think that there is a demand for the product or service that you will be offering, your concept has to have a track record of profitability. The company has to develop a process of how each step was done from the appearance and location of the business, to the sales price of each product, to the advertising used to develop the brand.

The company will have to develop a franchise business plan that can be replicated each and every time by any business owning a franchise. You will need to have audited financial statements for your business, as the disclosure of your financial well-being and accounting practices are a necessary part of franchising.



*Denice A. Gierach,
owner and founder
The Gierach Law Firm*

A training manual will have to be created to train both the new franchise owner and the staff. A marketing plan will have to be developed to help bring in customers to the franchises. You will need point of sale software system that will give you monthly financial results for each franchisee.

Once you have done the above, your franchise lawyer will help you by creating a document called the Financial Disclosure Document through the Federal Trade Commission. This is the standard disclosure document for all companies wishing to operate their franchise business plan within the United States. This document provides a detailed disclosure of territories, restrictions on goods and services that may be offered by the franchisee, any litigation that may have occurred, and all fees and expenses.

There may be state specific requirements, as well. In addition, your franchise attorney will need to assist in developing a franchise agreement, which is the contract between your business and the franchisees, which discloses what the rights and responsibilities of each party are, including what ongoing support that your company will be providing to the franchisee and at what cost.

Another step is to protect your brand with appropriate federal trademark protection. This can sometimes take as much as a year, but this process will also tell you if there are any similar trademarks or logos which your company may infringe upon by using the brand you developed, as well as provide protection from potential misuse your brand.

As you can tell, there is substantial work to organizing a franchise. The process may take over a year to complete. Yet, all the upfront work will be worth it when you have sold a number of franchises, which support and grow your company in a very profitable way.

Denice Gierach is a lawyer and owner of The Gierach Law Firm in Naperville. She is a certified public accountant and has a master's degree in management. Contact her at 630-756-1160 or visit www.GierachLawFirm.com.