



EUROPEAN  
FRANCHISE  
FEDERATION

# THE EUROPEAN CODE OF ETHICS FOR FRANCHISING

EFF'S GUIDELINES ON PRECONTRACTUAL  
DISCLOSURE INFORMATION

THE NATIONAL ANNEXES  
TO THE CODE OF ETHICS

**ethics**  
FOR FRANCHISING

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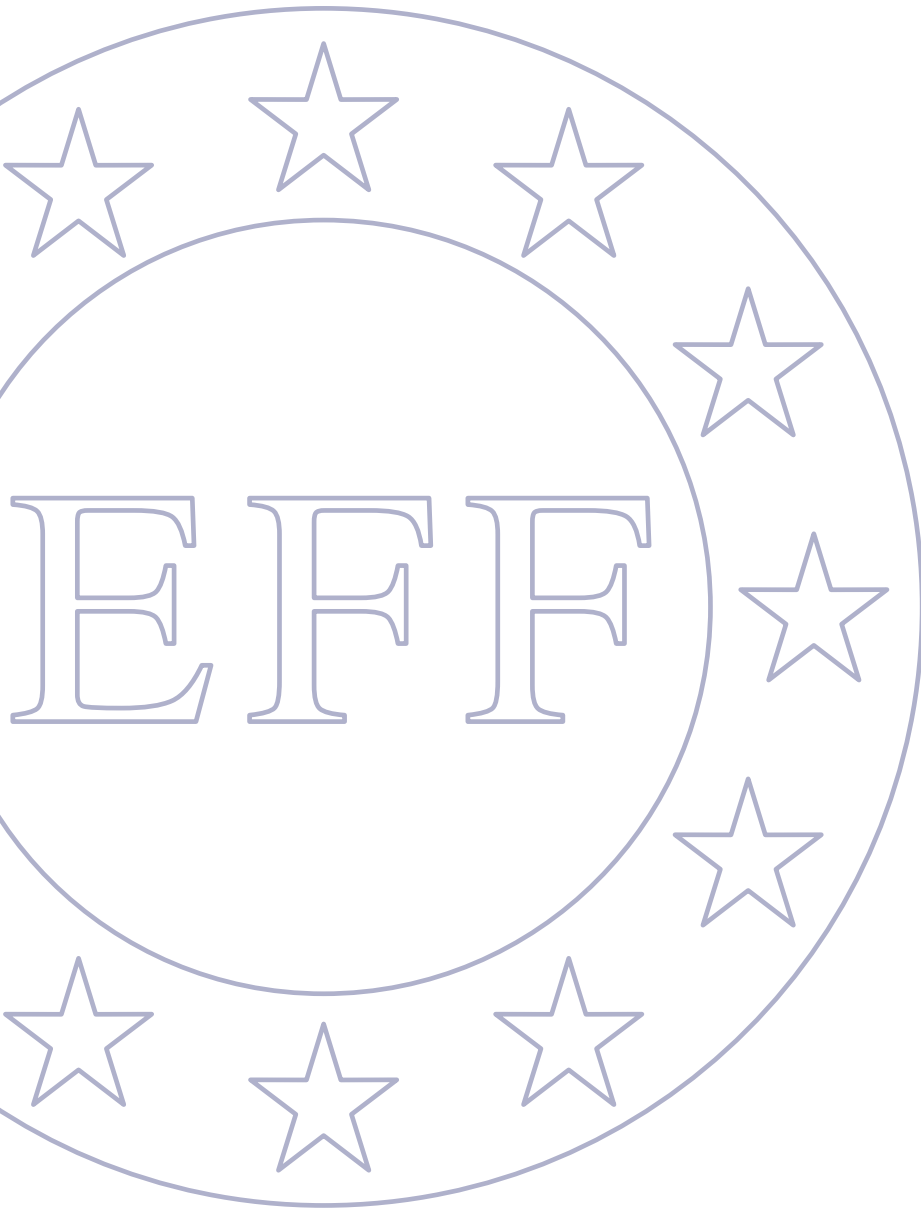
EUROPEAN FRANCHISE FEDERATION

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## Preface by the Chairman, Didier Deprey

At its beginnings, and for a long time, commercial franchising was described in rather abstract terms as a b-to-b commercial business partnership whereby each partner, franchisor and franchisee, were engaged in terms which were often vague. In other words, the exact frame of the franchise business project was not always clearly defined as a result of which the concept was not necessarily fully understood by all stakeholders. At the same time, the management of the relationship lacked a certain degree of integration and the rigidity of the contract restricted the flexibility for the concept's systems to evolve.

The European Franchise Federation – the EFF – gave itself as one of its missions in the early 1970's to bring clarity to the concept as well as to the rights & obligations in a franchise contract by developing the European Code of Ethics for Franchising.

The Code, with its description, values & recommended practices, is a tool which aims at forging a community of value-motivated franchise operators in Europe. The Code is at the heart of the commitments of the EFF & its member national Franchise Associations in Europe to shape the present & future of the development of franchising. The Code promotes it as a partnership of independent entrepreneurs who collaborate in a dynamic, emancipating & rewarding route to entrepreneurship.

At its best, franchising fosters commercial & economic progress in a number of ways:

- creation of new & original concepts, in an ever-increasing number of sectors, each with their specific goods & services, each with specific supply markets, both upstream & downstream,
- quick to pick up on new trends, franchise concepts stimulate intense & rapid technological change,
- franchising professionalizes traditional as well as new trades,
- it rationalises management & processes; its gains in productivity stem from a drive for perfection;
- it contributes to market competition whilst generating income for its parties,
- it roots local trade & national home-revenue and contributes to transparency in all sources of income,
- its tradition lies in the spirit of free enterprise, free of illusory protectionism;
- all of these systemic, economic & financial efficiencies make the franchise industry today the largest pool of world-renowned brands.

As significantly, its success lies necessarily on the solidarity of its actors, franchisor & franchisee inclusive of the interests of each. At its most virtuous, the relational eco-system of a franchise business & its network foster dialogue, cooperation & the sharing of knowledge & best practice. Above all, parties must share the conviction that consensus based on transparency, trust, dialogue & confidence offers the best route to mutual progress & success.

The power of franchising to do & to get done in a framework of collaborative personal skill-sharing makes up its ethical DNA. This & the self-independence, the autonomy of its franchise entrepreneurs, franchisors & franchisees, working collaboratively together define franchising's original contribution to entrepreneurship. This dynamic combination explains the intense interest for as well as the admiration that attract potential entrepreneurs to franchising.

The EFF is, in Europe

- the single voice for the promotion & defence of franchising,
- a community of associations & their franchise members voluntarily engaged in this true profession of faith as expressed in the European Code of Ethics for Franchising & its Guidelines,
- a Federation founded on the close collaboration of its the national franchise associations, each of which is an ambassador of our values as expressed here.


Set up in 1972 at the initiative of franchise entrepreneurs, the EFF is the single, unique professional membership organisation whose purpose is to promote, represent and defend proper and ethical commercial franchising in Europe. The EFF is a founding member of the World Franchise Council. This Code served to define the WFC's "Principles of Ethics for Franchising".



# Part 1.

## A. The EUROPEAN CODE OF ETHICS FOR FRANCHISING

Core text, in English



### PREAMBLE

1. This preamble sets out the purpose of the European Code of Ethics for Franchising and the principles under which Franchise Associations, Members of the European Franchise Federation, will apply the Code in their countries.
2. The EUROPEAN CODE OF ETHICS FOR FRANCHISING is a practical ensemble of essential provisions for the governance of the relations between a franchisor and each of its franchisees, operating together in the framework of the franchise network. The overarching principles of ethics that underline this set of provisions are good faith & fair dealings, which translate as franchisor-franchisee relations based on fairness, transparency and loyalty each of which contribute to founding confidence in the relationship.
3. The principles of the CODE are applicable at all stages of the franchise relationship: pre-contractual, contractual and post-contractual stages and for all actors in the franchise industry, irrespective of association membership or not.
4. The EUROPEAN CODE OF ETHICS FOR FRANCHISING constitutes the European franchising industry's self-defined and Self-Regulatory Code of ethical conduct and is designed for the franchise industry as a whole to look to for guidance on franchising generally. It originates within the membership community of the EFF but offers itself as a standard for all franchise stakeholders, present and future.
5. The CODE's clear and unambiguous principles are not in contradiction with national laws and fundamental rights in the EU. Its principles have the continuing objective of setting up a more efficient framework for franchising.
6. In particular, the CODE is the foundation stone of the action of the EUROPEAN FRANCHISE FEDERATION's National Franchise Association Members. Their respective membership rules, accreditation as well as disciplinary schemes must comply with the standards set in the CODE. The CODE, in its entirety, is binding for all EFF Members as well as their respective memberships. **The CODE is endorsed by all EFF Member Franchise Associations each of which is committed to its promotion, interpretation and implementation in their own country.** Each Association is responsible for ensuring that the Code is publicly available, in particular to all those entering the franchise industry.

7. National Franchise Associations which are Members of the EFF have the opportunity to add to the European Code of Ethics a National Extension and/or Interpretation to meet national requirements provided that it does not derogate from or misinterpret the Code (called “annexes” for short).
8. The EFF represents the franchise industry as a **whole which, in a multi-stakeholder approach, means the interests of the franchise** networks, inclusive of franchisors and franchisees towards public authorities, civil society, and consumers.
9. **The EUROPEAN CODE OF ETHICS FOR FRANCHISING was originally written in 1972 by major industry actors in Europe, members of the EFF’s founding associations.** It directly reflects the experience of good behaviour of franchisors and franchisees in Europe. It was reviewed in 1992 to reflect the evolution of franchising on the market as well as to meet the development of the EU’s regulatory frame.
10. THE CODE was again updated in 2016 in order to integrate further provisions both new as well as uploaded from the national annexes of the EFF Member associations. These provisions reflect the **grass-roots** best-practice as well as the maturity of franchisor-franchisee relationships in the EFF’s Member associations from which they are taken. This Code also integrates the recommendations of the European Commission<sup>1</sup> on **best-practice** in the design of Codes of Self-Regulation. Thus, the EFF Code is a living plan of action. Its updates are ongoing and iterative so as to reflect the constant evolution of franchising in Europe, and in particular the quality of its franchisor-franchisee relations.
11. The EFF believes, and this is attested by its 40-year experience as the single voice for franchising in Europe, that robust Self-Regulation is the **best adapted** and most flexible mode of regulation for the European franchise industry. It is on this foundation that Franchising has contributed significantly to the promotion of independent entrepreneurship, in particular the development of SME’s and modernised commerce, as well as related employment on the European markets.
12. THE EUROPEAN FRANCHISE FEDERATION (EFF) is a not-for-profit international association constituted in 1972. It is registered in Brussels, Belgium where it has a permanent Secretariat. The Federation’s members are the single accredited national franchise associations from countries that fall under the geo/institutional conditions expressed in the EFF’s Statutes.
13. A defining role of the EFF is to promote the diffusion and application of this CODE of ETHICS for FRANCHISING so as to secure the proper development of ethical franchising in Europe.

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<sup>1</sup> <https://ec.europa.eu/digital-single-market/en/cop-principles-better-self-and-co-regulation>



# THE EUROPEAN CODE OF ETHICS FOR FRANCHISING

## 1. DEFINITION OF FRANCHISING

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, whereby 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 trade mark and /or service mark, know-how, 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.

- **"know-how"** means a package 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 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 is significant and useful to the buyer for the use, sale or resale of the contract goods or services;
- **"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;

## 2. GUIDING PRINCIPLES

2.1 The Franchisor is the initiator and long-term guardian, in a market, of a franchise network, composed of the Franchisor and its individual Franchisees.

2.2 The commitments of the Franchisor:

### The Franchisor

- shall have operated a business concept with success in the relevant market, for at least one year and in at least one pilot unit before starting its franchise network in that market;
- shall be the owner, or have the legal rights to the use of its network's trade name, trade mark or other distinguishing identification;
- shall recognize their franchisees as independent entrepreneurs and shall not directly or indirectly subordinate them as employees;
- shall provide the Individual Franchisee with initial training and continuing commercial and /or technical assistance during the entire life of the agreement;
- shall grant the right to use the know-how transferred and/or made available to the Franchisee, which know-how it is the franchisor's responsibility to maintain and develop;

- vi. shall transfer and/or make available the know-how to the Franchisee through adequate means of information and training and shall monitor and control the proper use of that know-how;
- vii. shall encourage feedback of information from Franchisees in order to maintain and develop the know-how transferred and/or made available to them;
- viii. shall, in the pre-contractual, contractual and post-contractual phases of their relationship with Franchisees, seek to prevent any wrongful usage of or, in particular, the transmission of know-how to, competing networks so as to avoid prejudice to the interests of the network;
- ix. shall invest as appropriate the means, financial and human, to promote his brand and to engage in the research and innovation that will ensure the long-term development and continuity of his concept;
- x. shall inform prospective and individual franchisees of his internet commercial and/or sales policy;
- xi. shall seek to safeguard the interests of the network in the development of its (the Franchisor's) on-line commercial and/or sales policy;

### 2.3 The commitments of each Franchisee:

#### The Franchisee

- i. shall accept the obligation to collaborate loyally with the Franchisor in ensuring the success of the network which the franchisee has joined as an informed and fully independent entrepreneur;
- ii. shall 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;
- iii. shall be responsible for the human and financial means that it engages in its franchise business and is responsible as an independent entrepreneur, with regard to third parties, for his acts within the framework of the franchise;
- iv. shall act loyally with regard to each of the other Franchisees of the network as well as with regard to the network itself;
- v. shall supply the Franchisor with verifiable operating data to facilitate the determination of performance and the financial statements necessary for effective management guidance;
- vi. shall allow the Franchisor to ensure that the quality and image of the concept is properly maintained in the products and services provided by the Franchisee to the customer/consumer;
- vii. shall recognize his responsibilities as a fully independent entrepreneur with regard to the customer/consumer;
- viii. shall not disclose to third parties the know-how and other information material to the operation of the franchise provided by the Franchisor, neither during nor after termination of the franchise agreement.

### 2.4 The ongoing commitments of both parties:

#### The Parties

- i. shall seek to safeguard the image and reputation of the network in the running of their respective businesses;

- ii. shall exercise good faith and fairness in their dealings with each other. The parties shall give written notice of any contractual breach and, unless inappropriate, grant reasonable time to the other party to remedy default;
- iii. shall respect the confidentiality of information material to the franchise concept provided by the one to the other;
- iv. shall resolve complaints, grievances and disputes with good faith and goodwill through fair and reasonable direct communication and negotiation;
- v. shall where appropriate and where parties have failed to resolve a dispute through direct negotiation, seek in good faith mediation before litigation and/or arbitration organized or approved by an EFF National Association Member;

### 3. RECRUITMENT, ADVERTISING AND DISCLOSURE

- 3.1 Advertising for the recruitment of Individual Franchisees shall be free- of ambiguity and misleading statements.
- 3.2 Any recruitment, advertising and publicity material, containing direct or indirect references to future possible results, figures or earnings to be expected by Individual Franchisees, shall be objective and shall not be misleading.
- 3.3 In order to allow prospective Individual Franchisees to enter into any binding document with full knowledge, they shall be given a copy of the present Code of Ethics, or a public access to it, as well as full and accurate written disclosure of all information material to the franchise relationship, within a reasonable time prior to the execution of these binding documents.
- 3.4 The prospective Franchisee is responsible for carefully analyzing the information material to the franchise relationship, including choosing to take appropriate professional advice, before signing the franchise agreement.
- 3.5 The prospective Franchisee must be truthful and transparent in the information about his experience, his financial capacities, his training, background and any other information material to the franchise relationship he provides for the purpose of his selection by the Franchisor.
- 3.6 If a Franchisor imposes a pre-contract on a candidate individual Franchisee, the following principles should be respected:
  - i. prior to the signing of any pre-contract, the candidate Individual Franchisee should be given written information on its purpose and on any consideration he may be required to pay to the Franchisor to cover the latter's actual expenses, incurred during and with respect to the pre-contract phase; if the franchise agreement is executed, the said consideration should be reimbursed by the Franchisor or set off against a possible entry fee to be paid by the Individual Franchisee;
  - ii. the pre-contract shall define its term and include a termination clause;
  - iii. the Franchisor can impose non-competition and/or confidentiality clauses to protect its know-how and identity.

### 4. SELECTION OF INDIVIDUAL FRANCHISEES

A 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.

## 5. THE FRANCHISE AGREEMENT

- 5.1 The Franchise agreement shall comply with the National law, European community law and this Code of Ethics and any National Extensions thereto.
- 5.2 The agreement shall protect the Franchisor's industrial and intellectual property rights so as to secure the common identity, reputation and interests of the franchise network.
- 5.3 Franchisors shall offer to franchisees all agreements and all contractual arrangements in connection with the franchise relationship, in writing, in the official language of the country the Individual Franchisee is established in or in a language in which the franchisee formally declares itself competent. Signed agreements shall be given immediately to the Individual Franchisee.
- 5.4 The Franchise agreement shall set forth without ambiguity, the respective rights and obligations of the parties and all other material terms of the relationship.
- 5.5 The essential minimum terms of the agreement shall include at least the following:
- i. the rights granted to the Franchisor
  - ii. the rights granted to the Individual Franchisee
  - iii. the Franchisor's intellectual property rights on the brands, signs, etc. which should be established for a term at least as long as the term of the franchise agreement
  - iv. the goods and/or services to be provided to the Individual Franchisee
  - v. the obligations of the Franchisor
  - vi. the obligations of the Individual Franchisee
  - vii. the terms of payment by the Individual Franchisee
  - viii. the duration of the agreement which should be long enough to allow Individual Franchisees to amortize their initial and subsequent investments specific to the franchise
  - ix. the basis, including the notice which both parties must give, for any renewal of the agreement
  - x. the terms upon which the Individual Franchisee has the right to sell or transfer the franchised business as a going concern and the Franchisor's possible pre-emption rights in this respect
  - xi. 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
  - xii. the Franchisor's right to adapt the franchise system to new or changed methods
  - xiii. provisions for termination of the agreement
  - xiv. provisions for surrendering promptly upon termination of the franchise agreement any tangible and intangible property belonging to the Franchisor or other owner thereof.

## 6. THE CODE OF ETHICS AND MASTER-FRANCHISE SYSTEMS

This Code of Ethics shall apply to the relationship between the Franchisor and its Individual Franchisees and equally between the Master Franchisee and its Individual Franchisees. It shall not apply to the relationship between the Franchisor and its Master-Franchisees.

End of the European Code of Ethics for Franchising v.2016

## B. The EFF's GUIDELINES FOR MUTUAL PRECONTRACTUAL DISCLOSURE of INFORMATION between franchisor & candidate franchisee

These Guidelines substantiate articles 3.3, 3.4 & 3.5 of the Code of Ethics.

They were adopted by the EFF's General Assembly on June 13, 2019.

- i. A franchisor and a future (candidate) franchisee must be in a position to respectively commit themselves in the knowledge of facts in order to fully assume the consequences of their respective decisions to invest in and to engage themselves in a franchise agreement.
- ii. The aim of these Guidelines is to bring detail to the application of Articles 3.3, 3.4 (franchisor disclosure) and 3.5 (franchisee disclosure) of the European Code of Ethics for Franchising.
- iii. These Guidelines detail the information and data that must be contained in the document that both parties must give to one another before the signing of the franchise contract, all of which contribute to the correct understanding of the terms and implications of the agreement.
- iv. This pre-contractual information and data must be updated if there are any material changes to each individual agreement.
- v. This information must be provided by means of an easily accessible (/downloadable) and durable (/hard copy) support.
- vi. The franchise agreement must contain, at minimum:
  - The contractual dispositions described in Article 5.5 of the European Code,
  - For the franchisor: the information and data relative to the franchise agreement,
  - For the franchisee: the information and data relative to the candidate franchisee.

This set of compulsory pre-contractual information must be exchanged within a reasonable delay of at least 15 days, or at least as per the overriding national law, before the signing of the contract.

The information and data that must be disclosed by each party is as follows:

### For the franchisor:

1. The description of his activities as well as a relevant history of his system and franchise concept.
2. Information about how the knowhow will be transferred to the franchisee.
3. A market overview, including history as well as the current state of the market in which the activities will be carried out.

4. The intellectual property rights whose use is conceded in the agreement.
5. A description of the franchisor's experience in the running of the business concept.
6. Information about communication and support structures in place with the franchisees of the network.
7. Information about how brand identity and standards are protected.
8. Information about where and how to find a current list of franchise locations or territories of the network and their business contact information.
9. The number of franchise agreements signed in the last 3 years as well as ended over the last three years (for the country). In the relevant territory, a full franchise history will be given.
10. A list of financial obligations that the franchisee may expect to pay at start-up over and above the franchise fees, a list of future costs obligated by the franchise agreement that can be foreseen at the point of signing, as well as, explain where the financial consequences involved at the end of the contract may be found.
11. Make available key financial figures of the franchisor and/or, where available, the annual published accounts for the last 2 financial years.
12. Declare how the franchisor draws income from its business related to the franchise (for example, supplier rebates, marketing fees, etc.).
13. The list of means of selling the same products or services under the brand, commercial name or trademark which are the object of the franchise contract within the customer-catchment area or exclusive territory allocated to the candidate franchisee.
14. Whether or not the franchisee is granted an exclusive territory.
15. The non-compete and/or non-affiliation obligations imposed during and after the contract.

#### For the franchisee:

1. Identity,
2. Training, education,
3. A description of his professional experience/career,
4. Financial capabilities and origin of the funds,
5. Motivations,
6. Full disclosure of bankruptcies, liquidations and/or court judgements,
7. previous experience as an entrepreneur, including with another franchise business.

#### For both parties:

- viii. Both parties must also give written information of any personal circumstance material to the franchise agreement.
- ix. Neither the franchisor nor the franchisee may renounce this obligation of exchange of information.

- x. All of this compulsory information must conform to the national laws, European legislation as well as the European Code of Ethics for Franchising, including, as the case may be per association, the national annexes to the European Code.

End of the EFF's Guidelines on Precontractual Disclosure Information  
between franchisor and franchisee v.2019





# PART 2.

## THE EUROPEAN CODE OF ETHICS FOR FRANCHISING

### THE NATIONAL EXTENSIONS & INTERPRETATIONS (“Annexes”) TO THE CODE

#### National Annexes adopted by individual National Franchise Associations and applicable within their respective countries

As explained under Preamble point 7 of the CODE, National Franchise **Associations which are Members of the EFF** have the opportunity to develop their own National Extensions and/or Interpretations (“annexes”) as a complement to the core text of the EFF Code. These annexes are devised to meet more specific requirements experienced in a particular country. These may come and complement, as annexes, the European Code of Ethics, provided that the Extension or Interpretation does not derogate from or misinterpret the spirit or text of the Code itself.

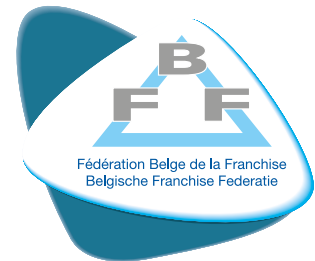
These national annexes reflect the evolution and maturity reached by a franchise community in a particular country. They reflect the lessons learnt from the experience franchisor-franchisee relations and which are elevated to become a standard of good franchise practice in a national that community.

It is a bonus for the EUROPEAN CODE OF ETHICS itself to be complemented with such annexes.

These national annexes constitute the ferment from which the EFF, at intervals, will select some of the provisions from national annexes to integrate them into the core text of the CODE so that they become common reference for the whole franchise industry across Europe.

- **Belgium : FEDERATION BELGE DE LA FRANCHISE - FBF BELGISCHE FRANCHISE FEDERATIE - BFF**  
(in Dutch, French & English)
- **Britain: BRITISH FRANCHISE ASSOCIATION - thebfa**  
(in English)
- **France : FEDERATION FRANCAISE DE LA FRANCHISE - FFF**  
(in French & English)
- **Greece: GREEK FRANCHISE ASSOCIATION - GFA**  
(in Greek & English)
- **Italy: ASSOCIAZIONE ITALIANA DEL FRANCHISING - AIF ASSOFRANCHISING**  
(in Italian & English)

- **Netherlands : NETHERLANDS FRANCHISE ASSOCIATION - NFV**  
(in Dutch & English)
- **Sweden: SWEDISH FRANCHISE ASSOCIATION - SF**  
(in Swedish & English)



## EUROPEAN CODE of ETHICS for FRANCHISING: the FBF-BFF's national annex (in Dutch, French & English)

### In Dutch

#### Belgische bijlagen bij de Europese Erecode inzake Franchising

1. De term **“concept”** houdt de combinatie in van drie elementen:
  - het eigendomsrecht of het gebruiksrecht van onderscheidende kenmerken, die het cliënteel associeert met het concept: handelsnaam of -merk, merknaam, firmanaam, bedrijfsnaam, uithangborden en symbolen, logo's;
  - een ervaring en knowhow;
  - een assortiment van producten, diensten en/of (al dan niet) gepatenteerde technologieën, die de franchisegever heeft ontworpen, op punt gesteld, goedgekeurd of verworven.
2. **“Geheim”** betekent dat de knowhow, in het algemeen of in de configuratie en de precieze montage van zijn onderdelen, niet algemeen bekend of gemakkelijk toegankelijk is. De term is niet beperkt tot de strikte betekenis dat elke individuele component van de knowhow geheel onbekend is of onmogelijk te bekomen zonder tussenkomst van de franchisegever.
3. **“Wezenlijk”** betekent dat de knowhow onmisbare informatie bevat voor de verkoop van producten of voor het leveren van diensten aan eindgebruikers en in het bijzonder voor de presentatie van producten voor de verkoop, de verwerking van producten voor de dienstverlening, de relatie met de klanten en het administratieve en financiële beheer; de knowhow moet bij het sluiten van de overeenkomst nuttig zijn voor de franchisenemer om de concurrentiële positie te versterken, de resultaten te verbeteren en de franchisenemer te helpen een nieuwe markt te betreden.
4. **“Bepaald”** betekent dat de knowhow voldoende gedetailleerd moet zijn beschreven om te kunnen beoordelen of hij aan de criteria van het geheime en wezenlijke karakter voldoet; De beschrijving van de knowhow kan opgenomen worden in de franchise-overeenkomst, in een apart document of in een andere geschikte vorm.
5. Het **“franchisenetwerk”** bestaat uit een franchisegever en franchisenemers:  
Het franchisenetwerk draagt dankzij zijn organisatie en ontwikkeling bij tot de verbetering van de productie en/of de verdeling van producten en/of diensten, of tot de technische en economische vooruitgang, waarvan elke deelnemer van het franchisenetwerk op een evenredige manier kan genieten. De franchisegever moet een continue, gestructureerde dialoog voorop stellen tussen zijn organisatie en de franchisenemers, die constructief moet zijn. De franchisenemer moet actief deelnemen aan het netwerk en bijdragen aan het algemene belang van het franchisenetwerk. Het merk van de franchisenemer, symbool van de identiteit en de reputatie van het netwerk, staat garant voor de kwaliteit van de geleverde dienst aan de consument. Deze waarborg wordt verzekerd door de overdracht van de knowhow, die gerespecteerd moet worden, en door een homogeen gamma van producten en/of diensten en/of technologieën. De franchisegever zorgt ervoor dat de franchisenemer zich moet profileren als een juridisch onafhankelijke ondernemer.

## 6. “Merkimago”:

De franchisegever stelt onderscheidende kenmerken die het cliënteel met associeert met het concept ter beschikking aan de franchisenemer. Hij moet hem de rechtsgeldigheid van de merk(en) verzekeren, waarbij het gebruiksrecht in een bepaalde hoedanigheid wordt overgedragen aan de franchisenemer.

De franchisegever kijkt erop toe dat de franchisenemer de gebruiksvoorschriften van het merk en daaraan verbonden kenmerken, die hem contractueel ter beschikking werden gesteld, effectief respecteert. Aan het einde van het contract verzekert de franchisegever zich ervan dat de exfranchisenemer de kenmerken niet meer gebruikt. In het geval van exclusief gebruiksrecht voor een bepaald gebied, preciseert de franchisegever de uitvoeringsmodaliteiten en draagwijdte.

De franchisegever garandeert dat het geheel van producten en/of diensten en/of technologieën die aan de consument worden aangeboden conform is aan het merkimago, door een exclusieve aankoopclausule te bedingen waar nodig en in het bijzonder voor producten die het merk van de franchisegever dragen.

7. In dit opzicht kan een overeenkomst een non-concurrentiebeding voorzien tijdens of aan het einde van het contract, waarbij de duur, de draagwijdte en het object worden bepaald i.f.v. het belang van het netwerk.

## 8. Contractuele verhoudingen:

De franchisegever en de franchisenemers weten dat ze samenwerken in een systeem waarbij hun belangen verbonden zijn, zowel op korte als op langere termijn.

De soepelheid van het systeem en de verantwoordelijkheidszin van beiden staan voor het succes van franchising.

De verhoudingen tussen de partners moeten dus toelaten om opvolging te geven aan noodzakelijke maatregelen om de werking van het franchisenetwerk te verbeteren en de consument tevreden te stellen.

De franchisegever stelt de geschreven overeenkomst op die op een volledige manier de rechten, de verplichtingen en de verantwoordelijkheden van partijen preciseert.

De overeenkomst moet de strategie van het franchisenetwerk vertalen en een indicatie inhouden van de middelen die nodig zijn om het franchiseconcept toe te passen. De overeenkomst mag partijen geen beperkingen opleggen die niet noodzakelijk zijn om de doelstellingen te bereiken.

Het evenwicht van de overeenkomst wordt gewaardeerd i.f.v. het belang van het franchisenetwerk. Het contractuele kader laat een continue dialoog toe en plaatst verzoeningsoplossingen voorop.

9. Als verantwoordelijke over de identiteit en de reputatie van het netwerk, verbindt de franchisegever zich ertoe om in lijn met zijn middelen en zijn beoogde doelstellingen:

- kwaliteitsnormen te bepalen en te waken over het respect ervan door de franchisenemers t.a.v. de consument.
- de franchisenemer geïnformeerd houden over de specifieke verantwoordelijkheid die eigen is aan franchising. En dit t.o.v. de consument die een klacht kan indienen bij de Consumentenombudsdienst, waarvan de taken vastgelegd zijn in Boek XVI van het Economisch Wetboek en verder uitgewerkt in het Koninklijk Besluit van 16 februari 2015. De Consumentenombudsdienst is te bereiken op [contact@consumentenombudsdienst.be](mailto:contact@consumentenombudsdienst.be).

- de aandacht van de franchisenemer te vestigen op de eventuele noodzaak de consument een bankgarantie of andere garantie te bieden, als de activiteit van het franchisenetwerk een volledige of gedeeltelijke voorafbetaling vraagt van de consument. De franchisenemer moet ofwel voldoende solvabel zijn of een verzekering hebben.

De franchisegever respecteert de precontractuele informatieregels, zoals beschreven in de artikelen X.26 tot 34, titel 2 van Boek X van het Economisch Wetboek, en de uitvoering van de franchiseovereenkomst volgens de adviezen van de Arbitragecommissie, opgericht ter uitvoering van artikel 34 van het Economisch Wetboek en gepubliceerd op de website van de FOD Economie (<http://economie.fgov.be>).

10. De franchisegever brengt de franchisenemer binnen een redelijke opzegtermijn op de hoogte van zijn intentie om het bestaande contract dat afloopt, niet te verlengen of een nieuw contract te tekenen, en dit geldt ook in de andere richting.
11. Als er in de franchise-overeenkomst voorwaarden zijn opgenomen over de overname en/of het gebruik van specifiek materiaal, mag de franchisegever deze voorwaarden niet aanwenden om de exfranchisenemer te penaliseren, maar moet hij de identiteit en de reputatie van het franchise-netwerk beschermen.
12. De franchisegever mag geen onrechtmatige praktijken aanwenden om zo de franchisenemer zijn vrijheid te ontnemen om uit het franchisenetwerk te stappen bij het einde van de franchise-overeenkomst.

## EUROPEAN CODE of ETHICS for FRANCHISING: the FBF-BFF's national annex

### In French

#### Annexes belges au code de déontologie européen de la franchise

1. Le **concept** est la conjonction originale de trois éléments :
  - la propriété ou le droit d'usage de signes de ralliement de la clientèle : marque de fabrique de commerce ou de services, enseigne, raison sociale, nom commercial, signes et symboles, logos ;
  - l'usage d'une expérience, d'un savoir-faire ;
  - une collection de produits, de services et/ou de technologies brevetées ou non, qu'il a conçus, mis au point, agréés ou acquis.
2. **Secret**, le fait que le savoir-faire, dans son ensemble ou dans la configuration et l'assemblage précis de ses composants, ne soit pas généralement connu ou facilement accessible : cela n'est pas limité au sens étroit que chaque composant individuel du savoir-faire doit être totalement inconnu ou impossible à obtenir hors des relations avec le franchiseur.
3. **Substantiel**, le fait que le savoir-faire doit inclure une information indispensable pour la vente de produits ou la prestation de services aux utilisateurs finaux et notamment pour la présentation des produits pour la vente, la transformation des produits en liaison avec la prestation de services, les relations avec la clientèle, et la gestion administrative et financière ; le savoir-faire doit être utile pour le franchisé en étant susceptible, à la date de conclusion de l'accord, d'améliorer la position concurrentielle du franchisé, en particulier en améliorant ses résultats ou en l'aidant à entrer sur un nouveau marché.
4. **Identifié**, le fait que le savoir-faire doit être décrit d'une façon suffisamment complète pour permettre de vérifier qu'il remplit les conditions de secret et de substantialité ; la description du savoir-faire peut être faite dans l'accord de franchise, dans un document séparé ou sous toute autre forme appropriée.
5. Le **réseau de franchise** est constitué du franchiseur et des franchisés : Le réseau de franchise, par son organisation et son développement, contribue à améliorer la production et /ou la distribution des produits et /ou services ou à promouvoir le progrès technique et économique tout en réservant aux utilisateurs une partie équitable du profit qui en résulte. Le franchiseur doit favoriser un dialogue permanent et structuré entre son organisation et les franchisés en favorisant des instances de concertation. Le franchisé doit s'impliquer dans la vie du réseau et contribuer à l'intérêt général du réseau. La marque du franchiseur, symbole de l'identité et de la réputation du réseau, constitue la garantie de la qualité du service rendu au consommateur. Cette garantie est assurée par la transmission et le contrôle du respect d'un savoir-faire et la mise à disposition d'une gamme homogène de produits et/ou de services et/ou de technologies. Le franchiseur s'assure que le franchisé, par une signalisation adéquate, fait connaître sa nature d'entrepreneur juridiquement indépendant.
6. **L'image de marque** :

Le franchiseur garantit au franchisé la jouissance de signes de ralliement de la clientèle mis à sa disposition. Il doit notamment lui garantir la validité de ses droits sur la ou les marques dont l'usage est conféré à quelque titre que ce soit, au franchisé. Le franchiseur entretient et développe l'image de marque. Le franchiseur veille au respect par le franchisé des prescriptions d'utilisation de la marque et des autres signes de ralliement mis contractuellement à sa disposition. À l'issue du contrat, le franchiseur s'assurera de la non-utilisation des signes de ralliement de la clientèle

par l'ancien franchisé. En cas d'exclusivité de l'utilisation de la marque sur un territoire donné, le franchiseur en précise les modalités : objet, portée. Le franchiseur s'assure par tout moyen que la collection de produits et/ou de services et/ou de technologies offerts au consommateur est bien conforme à l'image de marque et ce au moyen d'une clause d'achats exclusifs pour les systèmes qui le justifieraient et en particulier lorsque les produits portent la marque du franchiseur.

7. À cet égard, le contrat pourra prévoir une clause de non-concurrence en cours ou en fin de contrat dont la durée, la portée et l'objet sont déterminés pour tenir compte de l'intérêt du réseau.
8. **Les relations contractuelles :**

Le franchiseur et les franchisés savent qu'ils collaborent dans un système où leurs intérêts sont liés, tant à court qu'à terme plus long. La souplesse du système et le sens des responsabilités de chacun ont fait le succès de la franchise. Les relations entre les partenaires doivent donc permettre de suivre les évolutions nécessaires à améliorer le fonctionnement du réseau de franchise et la satisfaction du consommateur. Le franchiseur établit le contrat écrit qui énonce de façon complète et précise les droits, obligations et responsabilités des parties. Le contrat doit traduire la stratégie du réseau de franchise. Il comporte l'indication des moyens nécessaires pour atteindre la réalisation du concept de franchise. Le contrat n'impose pas aux parties intéressées de restrictions qui ne soient pas nécessaires pour atteindre les objectifs. L'équilibre du contrat est apprécié d'une façon globale en fonction de l'intérêt du réseau de franchise. Le cadre contractuel permet l'expression d'un dialogue permanent et favorise les solutions de conciliation.
9. En qualité de responsable de l'identité et de la réputation du réseau, le franchiseur s'efforce, en proportion de ses moyens et des buts recherchés, de :
  - Définir des normes de qualité et veiller ou faire veiller à leur respect par les franchisés vis-à-vis du consommateur ;
  - Maintenir le franchisé informé de l'existence de sa responsabilité, spécifique à la franchise, à l'égard du consommateur, en qualité de commerçant indépendant et notamment du recours possible au Service de Médiation pour le Consommateur dont les missions sont définies dans le Livre XVI du Code de droit économique et sont précisés dans l'Arrêté Royal du 16 février 2015 et dont l'adresse mail est la suivante : [contact@mediationconsommateur.be](mailto:contact@mediationconsommateur.be);
  - Dans les cas où l'activité du réseau de franchise nécessite un paiement d'avance total ou partiel par le consommateur, d'attirer l'attention du franchisé sur la nécessité de garantir le consommateur, soit par sa solvabilité propre, soit par une assurance, une garantie bancaire ou tout autre moyen. Le franchiseur respectera les règles de l'information précontractuelle telles qu'elles figurent aux articles X.26 à 34 du titre 2 du Livre X du Code de droit économique et l'exécution du contrat de franchise des avis de la Commission d'arbitrage constituée en exécution de l'article 34 du Code de droit économique et publiés sur le site du Service public fédéral Economie (<http://economie.fgov.be>);
10. Le cas échéant, le franchiseur informe le franchisé avec un préavis suffisant de son intention de ne pas renouveler l'ancien contrat arrivé à son terme ou de ne pas signer un nouveau contrat, et réciproquement.
11. Le franchiseur, ayant indiqué dans le contrat les conditions de reprise et /ou d'utilisation des matériels spécifiques à la franchise, ne recherche pas, par ces conditions, à pénaliser l'ancien franchisé, mais à protéger l'identité et la réputation du réseau de franchise.
12. Le franchiseur ne doit pas développer de pratiques injustifiées privant le franchisé de sa liberté de quitter le réseau à la fin du contrat de franchise.

## EUROPEAN CODE of ETHICS for FRANCHISING: the FBF-BFF's national annex

### In English

1. The franchise **concept** is an original combination of three (3) essential elements:
  - the property of or the right to use the signs that rally the customer. These include the brand name, trademark, trade name, corporate, business or commercial name, signs, symbols, logos;
  - the use of commercial experience, expertise, know-how,
  - a selection of products, services and/or technology, patented/registered or not, which the franchisor has conceived, adapted, approved or bought.
2. **Secret**, meaning that the know-how as a whole, or in the precise assembly or configuration of its components, is not generally known or easily accessible. This meaning is not limited to the strict or literal sense that each individual component of the know-how needs to be totally unknown or impossible to access outside of the relation with the franchisor.
3. **Substantial**, meaning the fact that the know-how must include information indispensable for the sale of products or the provision of a service to the final customer including information about the presentation of products for sale, the transformation of products in relation to the provision of services, the relations with customers as well as about the administrative and financial management. The know-how must be useful to the franchisee in the sense that, on signing the agreement, it is likely to enhance his competitive position and in particular, to improve his results and/or help him enter a new market.
4. **Identified**, meaning that the know-how must be described in a manner sufficiently complete to be able to verify that it meets the conditions of "secret" and "substantial". The know-how may be described either in the franchise agreement, in a separate document or in any other appropriate form or support.
5. The **franchise network** is composed of the franchisor and the franchisees.

The franchise network, by its organisation and its development, contributes to enhancing the production and/or distribution of goods and/or services or contributes to promoting economic and technical progress whilst at the same time ensuring that the end-customer benefits from a fair share of the resulting profit. The franchisor must implement a structured and permanent dialogue between his corporate organisation and the franchisees. The franchisee must engage in the life of the network and contribute to its general interest. The franchisor's brand/trade name, symbol of the network's identity and reputation, constitutes the guarantee of the quality of service that is offered to the customer.

This guarantee is assured by the transmission of know-how as well as the controls on the respect of this know-how, as well as in the offer of a homogenous range of products, services and/or technologies. The franchisor will ensure that each franchisee clearly publicizes to the customer, by appropriate and visible signs, his status as a legally independent entrepreneur.

6. **The brand image:**  
the franchisor guarantees with regards the franchisee the rights to use all of the brand's customer-rallying signs which he puts at the disposal of the franchisee. The franchisor must also guarantee the validity of the rights he has on the brand(s)/trade name(s) that have been conferred in whatever capacity to the franchisee. The franchisor maintains and develops the image of the brand. The franchisor must control that the franchisee is using the brand/trade name and all other commercial signs that are put contractually at his disposition in accordance with the rules and instructions for their proper use. On termination of the contract, the



franchisor will control that the ex-franchisee is no longer using the brand/trade names of the concept. If the contract, for the use of the brand, contains a clause of territorial exclusivity, the franchisor must specify its conditions, including its object and scope. The franchisor must make sure, by all means, that the selection of products and/or services and/or technologies offered to the customer conform properly to the image of the brand. As the case may be, this may be assured by a clause of exclusive supply, in particular if the products carry the brand/trade name of the franchisor.

7. In this respect, the contract may foresee an in-term or post-term non-compete clause whose object, term and scope are defined so as to take into account the interests of the network.

**8. The contractual relations:**

The franchisor and the franchisees are fully aware that they are collaborating in a system in which their interests are linked for the short and long term. The flexibility of the franchise system and the sense of responsibility of each party contribute to the success of franchising. The relations between the parties must be defined so as to make allowance for the necessary evolutions needed to improve the functioning of the network as well as the satisfaction of the customer.

The franchisor defines the terms of the written contract which details in full and in precise terms the rights, obligations, and responsibilities of each party. The contract must reflect the strategy of the franchise network as well as indicate the means necessary for the realisation of the franchise concept.

The contract will not impose restrictions on either party which are not necessary to the attainment of the objectives. The balance of the contract is to be appreciated globally in light of the general interest of the franchise network. The general contractual framework allows for a permanent dialogue and favours conciliatory solutions.

9. As the party responsible for the identity and the reputation of the network, the franchisor strives, proportionally to his means and the objectives sought:

- to define norms of quality as well as their means of control, direct or indirect, of the franchisee with regards to the customer,
- to keep the franchisee informed of his responsibilities, specific to the franchise, with regards to the customer, including his status as an independent entrepreneur. The franchisor will also inform the franchisee of the opportunity he has of accessing the public Service of Consumer Mediation whose missions are defined in Book XVI of the Code of Economic Law et which are further developed in the Royal Decree of February 16th, 2015 and which is available at the following link: [contact@mediationconsommateur.be](mailto:contact@mediationconsommateur.be),
- in case the activity of the franchise network requires advance payments by the customer, partial or total, the franchisor must draw the franchisee's attention to the necessity of having a guarantee system with regards to the customer, either by being personally solvable or by taking up an insurance, a bank guarantee or any other appropriate means.

The franchisor will respect the rules about precontractual disclosure as they are defined in articles X.26 to 36 of Title 2 of Book X of the Code of Economic Law and will take into account, in the execution of the contract, the Advice notices of the Arbitration Committee set up by article 34 of the Code of Economic Law and available at the following link on the site of the Federal Ministry of the Economy: <http://economie.fgov.be>.

10. As the case may be, the franchisor and franchisee inform one another reciprocally and with sufficient notice of either party's intention not to renew the present contract as it reaches its term, or of not wishing to sign a new contract.
11. The franchise contract should specify the conditions which allow the franchisor to recover or retrieve certain goods or furnishings specific to the franchise once the contract ends. By doing this, the franchisor is not seeking to penalise the ex-franchisee but to protect the identity and reputation of the franchise network.
12. The franchisor must not implement unjustified practices aimed at restricting the franchisee's freedom to leave the network at the end of the franchise contract.

End of the Fédération Belge de la Franchise/ Belgische Franchise Federatie's Annexes  
to the Code of Ethics

## EUROPEAN CODE of ETHICS for FRANCHISING: the bfa's national annex

In English

### BRITISH FRANCHISE ASSOCIATION CODE OF ETHICAL CONDUCT: EXTENSION AND INTERPRETATION

This Extension and Interpretation forms an integral part of the Code of Ethical Conduct adopted by the British Franchise Association and to which its members adhere.

#### APPLICATION

1. This Code of Ethical Conduct forms part of the membership agreement between the British Franchise Association and its member companies. It does not form any part of the contractual agreement between franchisor and franchisee unless expressly stated to do so by the franchisor. Neither should anything in this Code be construed as limiting a franchisor's right to sell or assign its interest in a franchised business.

#### INDEPENDANCE

2. The Code states under clause 2.2(iii) that the franchisor must ensure that it recognises its franchisees as independent entrepreneurs and not directly or indirectly subordinate them as employees. Franchisors should seek to ensure that they treat franchisees as independent businesses and consider to what extent the individual genuinely running their own business, at their own discretion and their own risk and what rights they have – workers have certain significant rights under UK employment legislation, whereas self-employed individuals do not.

#### DISCLOSURE

3. The objectivity of recruitment literature (Clause 3.2) refers specifically to publicly available material. It is recognised that in discussing individual business projections with franchisees, franchisors are invariably involved in making assumptions which can only be tested by the passage of time.

#### CONFIDENTIALITY

4. For the generality of this Code of Ethical Conduct, 'know-how' is taken as being as defined in the European Commission Regulation (EU) No. 330/2010 to Article 101(1) of the Treaty on the Functioning of the European Union. However, for the purposes of Article 3.6 of the European Code of Ethics it is accepted that franchisors may impose non-competition and secrecy clauses to protect other information and systems where they may be reasonably regarded as material to the operation of the franchise.

#### CONTRACT TERM

5. In suggesting in Article 5.5 of the European Code of Ethics that the minimum term for a franchise contract should be the period necessary to amortize those of a franchisee's initial and subsequent investment which are specific to the franchise, it is recognised:

<sup>2</sup> European Commission Regulation (EU) No. 330/2010, term: 2010-May 31, 2022, currently under review by the European Commission

- a. that for a minority of the largest franchise opportunities amortizing initial investments may not be a primary objective for the franchisee. In such cases the objective should be to adopt a contract period which reasonably balances the interests of the parties to the contract.
- b. that this section could be subject to national laws concerning the restraint of trade and may need to be met through renewal clauses.

## MASTER FRANCHISEES

6. Clause 5.5(iii) of the new Code of Ethics states that the Franchisor's intellectual property rights on the brands, signs etc. should be established for a term at least as long as the term of the franchise agreement. With regard to Master franchisees, in interpreting this clause the bfa takes in to account the Master franchisee's renewal rights, thus ensuring that a Master Franchisee has a potentially long enough term left on its master franchise agreement to grant unit franchises. However in the spirit of the Code of Ethics the bfa also makes the assumption that if the master franchisee's contract were to cease, in order to ensure that the grant of the intellectual property rights under the franchise agreement are not prejudiced the responsibility for the continuing trading of the unit franchisees should be preserved either by transfer to the Franchisor or to its nominee.

## CONTRACT RENEWAL

7. The basis for contract renewal should take into account the length of the original term, the extent to which the contract empowers the franchisor to require investments from the franchisee for refurbishment or renovation, and the extent to which the franchisor may vary the terms of a contract on renewal. The overriding objective is to ensure that the franchisee has the opportunity to recover their franchise specific initial and subsequent investments and to exploit the franchised business for as long as the contract persists.

## ADOPTION

This Code of Ethical Conduct comprising this Extension and Interpretation and the European Code of Ethics for Franchising was adopted by the British Franchise Association, replacing its previous Code of Ethics on 8th December 2016, subject to a transitional period for full compliance ending 31st December 2017. During the transitional period members of the Association are nonetheless required to comply at least with the Code of Ethics previously in force.

[End of the British Franchise Association's Annexes to the Code of Ethics v.2017](#)



## EUROPEAN CODE of ETHICS for FRANCHISING: the FFF's national annex

### In French

- 1. Le concept** est la conjonction originale de trois éléments :
  - la propriété ou le droit d'usage de signes de ralliement de la clientèle : marque de fabrique de commerce ou de services, enseigne, raison sociale, nom commercial, signes et symboles, logos ;
  - l'usage d'une expérience, d'un savoir-faire ;
  - une collection de produits, de services et /ou de technologies brevetées ou non, qu'il a conçus, mis au point, agréés ou acquis.
- 2. Secret**, le fait que le savoir-faire, dans son ensemble ou dans la configuration et l'assemblage précis de ses composants, ne soit pas généralement connu ou facilement accessible : cela n'est pas limité au sens étroit que chaque composant individuel du savoir-faire doive être totalement inconnu ou impossible à obtenir hors des relations avec le franchiseur.
- 3. Substantiel**, le fait que le savoir-faire doive inclure une information indispensable pour la vente de produits ou la prestation de services aux utilisateurs finaux et notamment pour la présentation des produits pour la vente, la transformation des produits en liaison avec la prestation de services, les relations avec la clientèle, et la gestion administrative et financière ; le savoir-faire doit être utile pour le franchisé en étant susceptible, à la date de conclusion de l'accord, d'améliorer la position concurrentielle du franchisé, en particulier en améliorant ses résultats ou en l'aidant à entrer sur un nouveau marché.
- 4. Identifié**, le fait que le savoir-faire doive être décrit d'une façon suffisamment complète pour permettre de vérifier qu'il remplit les conditions de secret et de substantialité ; la description du savoir-faire peut être faite dans l'accord de franchise, dans un document séparé ou sous toute autre forme appropriée.
- 5. Le réseau de franchise** est constitué du franchiseur et des franchisés. Le réseau de franchise, par son organisation et son développement, contribue à améliorer la production et /ou la distribution des produits et /ou services ou à promouvoir le progrès technique et économique tout en réservant aux utilisateurs une partie équitable du profit qui en résulte. Le franchiseur doit favoriser un dialogue permanent et structuré entre son organisation et les franchisés en favorisant des instances de concertation. Le franchisé doit s'impliquer dans la vie du réseau et contribuer à l'intérêt général du réseau. La marque du franchiseur, symbole de l'identité et de la réputation du réseau, constitue la garantie de la qualité du service rendu au consommateur. Cette garantie est assurée par la transmission et le contrôle du respect d'un savoir-faire et la mise à disposition d'une gamme homogène de produits et /ou de services et /ou de technologies. Le franchiseur s'assure que le franchisé, par une signalisation adéquate, fait connaître sa nature d'entrepreneur juridiquement indépendant.
- 6. L'image de marque** :

Le franchiseur garantit au franchisé la jouissance de signes de ralliement de la clientèle mis à sa disposition. Il doit notamment lui garantir la validité de ses droits sur la ou les marques dont l'usage est conféré à quelque titre que ce soit, au franchisé. Le franchiseur entretient et développe l'image de marque. Le franchiseur veille au respect par le franchisé des prescriptions d'utilisation de la marque et des autres signes de ralliement mis contractuellement à sa disposition. À l'issue

du contrat, le franchiseur s'assurera de la non-utilisation des signes de ralliement de la clientèle par l'ancien franchisé. En cas d'exclusivité de l'utilisation de la marque sur un territoire donné, le franchiseur en précise les modalités : objet, portée. Le franchiseur s'assure par tout moyen que la collection de produits et /ou de services et /ou de technologies offerts au consommateur est bien conforme à l'image de marque et ce au moyen d'une clause d'achats exclusifs pour les systèmes qui le justifieraient et en particulier lorsque les produits portent la marque du franchiseur.

7. À cet égard, le contrat pourra prévoir une clause de non-concurrence en cours ou en fin de contrat dont la durée, la portée et l'objet sont déterminés pour tenir compte de l'intérêt du réseau.

#### 8. **Les relations contractuelles :**

Le franchiseur et les franchisés savent qu'ils collaborent dans un système où leurs intérêts sont liés, tant à court qu'à terme plus long. La souplesse du système et le sens des responsabilités de chacun ont fait le succès de la franchise. Les relations entre les partenaires doivent donc permettre de suivre les évolutions nécessaires à améliorer le fonctionnement du réseau de franchise et la satisfaction du consommateur. Le franchiseur établit le contrat écrit qui énonce de façon complète et précise les droits, obligations et responsabilités des parties. Le contrat doit traduire la stratégie du réseau de franchise. Il comporte l'indication des moyens nécessaires pour atteindre la réalisation du concept de franchise. Le contrat n'impose pas aux parties intéressées de restrictions qui ne soient pas nécessaires pour atteindre les objectifs.

L'équilibre du contrat est apprécié d'une façon globale en fonction de l'intérêt du réseau de franchise. Le cadre contractuel permet l'expression d'un dialogue permanent et favorise les solutions de conciliation.

9. En qualité de responsable de l'identité et de la réputation du réseau, le franchiseur s'efforce, en proportion de ses moyens et des buts recherchés, de :

- Définir des normes de qualité et veiller ou faire veiller à leur respect par les franchisés vis-à-vis du consommateur.
- Maintenir le franchisé informé de l'existence de sa responsabilité, spécifique à la franchise, à l'égard du consommateur, en qualité de commerçant indépendant et notamment du recours possible au Comité de Médiation Franchise-Consommateurs de la Fédération Française de la Franchise.
- Dans les cas où l'activité du réseau de franchise nécessite un paiement d'avance total ou partiel par le consommateur, d'attirer l'attention du franchisé sur la nécessité de garantir le consommateur, soit par sa solvabilité propre, soit par une assurance, une garantie bancaire ou tout autre moyen.

10. Le cas échéant, le franchiseur informe le franchisé avec un préavis suffisant de son intention de ne pas renouveler l'ancien contrat arrivé à son terme ou de ne pas signer un nouveau contrat, et réciproquement.

11. Le franchiseur, ayant indiqué dans le contrat les conditions de reprise et /ou d'utilisation des matériels spécifiques à la franchise, ne recherche pas, par ces conditions, à pénaliser l'ancien franchisé, mais à protéger l'identité et la réputation du réseau de franchise.

12. Le franchiseur ne doit pas développer de pratiques injustifiées privant le franchisé de sa liberté de quitter le réseau à la fin du contrat de franchise.

13. En tant qu'entrepreneur responsable conscient des grands enjeux sociétaux, le franchiseur s'engage à mettre en place une approche RSE dans le développement de son réseau.

## EUROPEAN CODE of ETHICS for FRANCHISING : the FFF's national annex

### In English

1. **The franchise concept** is an original combination of three (3) essential elements:
  - the property of or the right to use the signs that rally the customer. These include the brand name, trademark, trade name, corporate, business or commercial name, signs, symbols, logos;
  - the use of commercial experience, expertise, know-how,
  - a selection of products, services and/or technology, patented/registered or not, which the franchisor has conceived, adapted, approved or bought.
2. **Secret**, meaning that the know-how as a whole, or in the precise assembly or configuration of its components, is not generally known or easily accessible. This meaning is not limited to the strict or literal sense that each individual component of the know-how needs to be totally unknown or impossible to access outside of the relation with the franchisor.
3. **Substantial**, meaning the fact that the know-how must include information indispensable for the sale of products or the provision of a service to the final customer including information about the presentation of products for sale, the transformation of products in relation to the provision of services, the relations with customers as well as about the administrative and financial management. The know-how must be useful to the franchisee in the sense that, on signing the agreement, it is likely to enhance his competitive position and in particular, to improve his results and/or help him enter a new market.
4. **Identified**, meaning that the know-how must be described in a manner sufficiently complete to be able to verify that it meets the conditions of “secret” and “substantial”. The know-how may be described either in the franchise agreement, in a separate document or in any other appropriate form or support.
5. **The franchise network** is composed of the franchisor and the franchisees.

The franchise network, by its organisation and its development, contributes to enhancing the production and/or distribution of goods and/or services or contributes to promoting economic and technical progress whilst at the same time ensuring that the end-customer benefits from a fair share of the resulting profit. The franchisor must implement a structured and permanent dialogue between his corporate organisation and the franchisees. The franchisee must engage in the life of the network and contribute to its general interest. The franchisor's brand/trade name, symbol of the network's identity and reputation, constitutes the guarantee of the quality of service that is offered to the customer.

This guarantee is assured by the transmission of know-how as well as the controls on the respect of this know-how, as well as in the offer of a homogenous range of products, services and/or technologies. The franchisor will ensure that each franchisee clearly publicizes to the customer, by appropriate and visible signs, his status as a legally independent entrepreneur.
6. **The brand image:**

the franchisor guarantees with regards the franchisee the rights to use all of the brand's customer-rallying signs which he puts at the disposal of the franchisee. The franchisor must also guarantee the validity of the rights he has on the brand(s)/trade name(s) that have been conferred in whatever capacity to the franchisee. The franchisor maintains and develops the image of the brand. The franchisor must control that the franchisee is using the brand/trade name and all other commercial signs that are put contractually at his disposition in accordance with the rules and instructions for their proper use. On termination of the contract, the

franchisor will control that the ex-franchisee is no longer using the brand/trade names of the concept. If the contract, for the use of the brand, contains a clause of territorial exclusivity, the franchisor must specify its conditions, including its object and scope. The franchisor must make sure, by all means, that the selection of products and/or services and/or technologies offered to the customer conform properly to the image of the brand. As the case may be, this may be assured by a clause of exclusive supply, in particular if the products carry the brand/trade name of the franchisor.

7. In this respect, the contract may foresee an in-term or post-term non-compete clause whose object, term and scope are defined so as to take into account the interests of the network.

**8. The contractual relations:**

The franchisor and the franchisees are fully aware that they are collaborating in a system in which their interests are linked for the short and long term. The flexibility of the franchise system and the sense of responsibility of each party contribute to the success of franchising. The relations between the parties must be defined so as to make allowance for the necessary evolutions needed to improve the functioning of the network as well as the satisfaction of the customer.

The franchisor defines the terms of the written contract which details in full and in precise terms the rights, obligations, and responsibilities of each party. The contract must reflect the strategy of the franchise network as well as indicate the means necessary for the realisation of the franchise concept.

The contract will not impose restrictions on either party which are not necessary to the attainment of the objectives. The balance of the contract is to be appreciated globally in light of the general interest of the franchise network. The general contractual framework allows for a permanent dialogue and favours conciliatory solutions.

9. As the party responsible for the identity and the reputation of the network, the franchisor strives, proportionally to his means and the objectives sought:

- to define norms of quality as well as their means of control, direct or indirect, of the franchisee with regards to the customer,
- to keep the franchisee informed of his responsibilities, specific to the franchise, with regards the customer, including his status as an independent entrepreneur. The franchisor will also inform the franchisee of the opportunity he has of accessing the services of the “Comité de Médiation Franchise-Consommateurs” of the French Franchise Federation.
- in case the franchise sales require advance payments by the customer, partial or total, the franchisor must draw the franchisee’s attention to the franchisee’s need of having a guarantee system with regards the customer, either by being personally solvable or by taking up an insurance, a bank guarantee or by any other appropriate means.

10. As the case may be, the franchisor and franchisee inform one another reciprocally and with sufficient notice of either party’s intention not to renew the present contract as it reaches its term, or of not wishing to sign a new contract.

11. The franchise contract should specify the conditions which allow the franchisor to recover or retrieve certain goods or furnishings specific to the franchise once the contract ends. By doing this, the franchisor is not seeking to penalise the ex-franchisee but to protect the identity and reputation of the franchise network.

12. The franchisor must not implement unjustified practices aimed at restricting the franchisee’s freedom to leave the network at the end of the franchise contract.



13. As an entrepreneur, responsible as well as aware of the major current societal issues, the franchisor commits to implement a policy of Corporate Social Responsibility (CSR) to enhance the development of its network.

End of the Fédération Française de la Franchise's Annexes to the Code of Ethics v.2019



## EUROPEAN CODE of ETHICS for FRANCHISING: Assofranchising's national annex (in Italian & English)

### In Italian

**CODICE DEONTOLOGICO dell'Associazione Italiana del Franchising**  
(1/1/1995; rev. in data 23 maggio 2014)

### PREMESSA

Il presente Codice Deontologico deve essere osservato da tutti i Soci dell'Associazione Italiana del Franchising.

Esso ha lo scopo di imporre agli Affiliati, Soci dell'Assofranchising, l'adozione di regole di comportamento ispirate a principi di correttezza e professionalità.

L'appartenenza dell'Affiliante all'Assofranchising garantisce, quindi, l'assoggettamento di esso a tali ulteriori regole, tendenti a favorire l'instaurazione e lo svolgimento di un corretto rapporto di Franchising.

Il presente Codice Deontologico integra - ma non sostituisce né si pone in contrasto con - le normative di legge e/o di autoregolamentazione, vigenti a livello nazionale ed europeo, che devono quindi continuare ad essere scrupolosamente osservate dai Soci.

Nel caso in cui dovesse insorgere, in futuro, un conflitto tra il presente Codice Deontologico ed una normativa di legge inderogabile, sarà cura dell'Assofranchising modificare di conseguenza il Codice Deontologico. Nel frattempo, i Soci saranno automaticamente esonerati dall'osservanza delle norme di esso, che dovessero risultare in contrasto con tale normativa.

Il presente Codice Deontologico presuppone la stretta osservanza, da parte dei Soci, delle regole deontologiche e di autoregolamentazione, predisposte dalla Federazione Europea del Franchising, con le quali esso deve essere coordinato, sia in fase interpretativa che applicativa, per impedire l'insorgere di qualsiasi conflitto.

Il presente Codice Deontologico verrà periodicamente rivisto ed aggiornato, per essere in linea con le nuove normative che dovessero essere adottate, sia su base legislativa che volontaria, a livello nazionale ed europeo.

### ART. 1 - OBBLIGHI DEI SOCI

I Soci sono tenuti ad osservare scrupolosamente tutta la normativa nazionale applicabile direttamente od indirettamente in materia di Franchising, in particolare: la legge 6 maggio 2004, n. 129 e il D.M. 2 settembre 2005, n. 204; la normativa contenuta nel Codice Civile; quella vigente in materia di diritti di proprietà industriale ed intellettuale, con specifico riferimento al Decreto Legislativo 10 febbraio 2005, n. 30 (c.d. Codice della proprietà industriale); quella relativa alla tutela della concorrenza, con specifico riferimento alla Legge 10 ottobre 1990, n. 287, e il Decreto Legislativo 30 giugno 2003, n. 196 (Codice in materia di protezione dei dati personali).

Inoltre, i Soci sono tenuti a rispettare scrupolosamente la normativa europea applicabile, direttamente od indirettamente, in materia di Franchising, sia su base regolamentare che volontaria,

con particolare riferimento al Regolamento CE n. 330/2010, ed al Codice Deontologico Europeo, predisposto dalla Federazione Europea del Franchising.

In fine, i Soci dovranno osservare scrupolosamente tutte le norme contenute nel presente Codice Deontologico e nello Statuto dell'Assofranchising.

L'inosservanza dei sopra citati doveri, da parte dei Soci, verrà sanzionata in conformità alle previsioni contenute nel successivo Art. 11.

## **ART. 2 - PERIODO MINIMO DI ESPERIENZA**

Prima di costituire la propria rete di Franchising, l'Affiliante dovrà aver sperimentato sul mercato, con successo, la propria formula, per un periodo minimo di 1 anno, con almeno un'unità pilota, qualora applicabile.

## **ART. 3 - MARCHI**

L'affiliante dovrà essere titolare di un diritto all'uso esclusivo dei marchi utilizzati nell'ambito della rete di Franchising.

La registrazione, o comunque il deposito, di tali marchi dovrà avvenire in conformità alla normativa vigente.

Nel contratto di Franchising dovranno essere specificamente indicati gli estremi della registrazione o del deposito dei marchi, o della licenza (comprese la durata e l'estensione della stessa) concessa all'Affiliante dal terzo che abbia la titolarità dei marchi stessi.

In mancanza di registrazione o deposito dei marchi utilizzati, l'Affiliante sarà tenuto a fornire all'Affiliato la documentazione comprovante l'uso concreto dei marchi.

## **ART. 4 - CONTRATTO PRELIMINARE DI FRANCHISING**

L'utilizzo di un contratto preliminare di Franchising dovrà essere limitato ai casi in cui esso risulti assolutamente indispensabile, per il corretto perseguimento degli obiettivi di sviluppo del sistema di franchising; da parte dell'Affiliante.

Tale contratto non dovrà però, in nessun caso, sostituire od integrare, in tutto od in parte, il contratto definitivo di Franchising e dovrà chiaramente indicare i tempi e le modalità di instaurazione del rapporto e di sottoscrizione del contratto definitivo.

## **ART. 5 - DOVERI PREVENTIVI DI INFORMAZIONE DELL'AFFILIATO DA PARTE DELL'AFFILIANTE**

L'Affiliante dovrà consegnare all'Affiliato, almeno 30 giorni prima della firma del contratto di Franchising, la seguente documentazione:

- a. una copia integrale del suddetto contratto di Franchising, contenente tutti i requisiti richiesti dalla legge 129/04, unitamente a tutti i relativi allegati, ad eccezione di quelli per i quali sussistono obiettive e specifiche esigenze di riservatezza, che però dovranno essere menzionati nel contratto;
- b. su richiesta dell'Affiliato una copia del bilancio degli ultimi tre anni, od, in ogni caso, a decorrere dalla data di inizio della sua attività, qualora esso sia avvenuto da meno di tre anni;
- c. una lista degli Affiliati operanti all'interno del suo sistema di Franchising, completa di indirizzi e numeri telefonici o altro mezzo di contatto (fax, e-mail ecc.);

- d. un documento contenente l'indicazione della variazione, anno per anno, del numero degli Affiliati, negli ultimi tre anni o dalla data di inizio della sua attività, qualora esso sia avvenuto da meno di tre anni;
- e. un documento contenente la sintetica descrizione degli eventuali procedimenti giudiziari - promossi nei suoi confronti e che si siano conclusi negli ultimi tre anni - relativamente al sistema di Franchising in esame, sia da affiliati che da terzi privati o da pubbliche autorità;
- f. su richiesta dell'affiliato, un'eventuale ipotesi di conto economico fondata, se possibile, su esperienze medie di affiliati in posizione analoga;
- g. una copia del presente Codice Deontologico;
- h. una copia del Codice Deontologico Europeo.

### **ART. 6 - CONTRATTO DI FRANCHISING**

Al momento della presentazione della domanda di ammissione all'Assofranchising, l'Affiliante dovrà consegnare, alla stessa, copia del suo contratto tipo di Franchising, corredato dei relativi allegati, ad eccezione di quelli per i quali sussistano obiettive e specifiche esigenze di riservatezza, che però dovranno essere in ogni caso menzionati.

Inoltre, l'Affiliante dovrà consegnare tempestivamente all'Assofranchising tutti gli eventuali successivi testi modificati del Suo contratto tipo di franchising, in modo che l'Assofranchising abbia sempre copia del contratto da esso al momento utilizzato.

Il contratto di Franchising dovrà essere redatto per iscritto, in modo chiaro ed esauriente, e potrà prevedere l'obbligazione dell'Affiliato di conformarsi alla disciplina contenuta nel Codice Deontologico Europeo.

### **ART. 7 - DURATA DEL CONTRATTO**

Il contratto di Franchising potrà avere durata determinata o indeterminata.

All'Affiliato dovrà però essere garantita una durata minima tale da consentire l'ammortamento dell'investimento effettuato, ed, in ogni caso, non inferiore a tre anni, fatta salva l'ipotesi di risoluzione anticipata del contratto, per inadempimento degli obblighi contrattuali di una delle parti.

Tuttavia, la permanenza in vigore del contratto potrà essere subordinata al raggiungimento di risultati minimi annuali, da parte dell'Affiliato, ad esempio in termini di minimi di acquisto o di vendita. Tali minimi dovranno essere ragionevoli, basati sulle precedenti esperienze del sistema di Franchising, ma adattati al caso in esame, e dovranno essere frutto di concorde valutazioni delle parti.

### **ART. 8 - FORMAZIONE E KNOW HOW**

Nel contratto di Franchising dovrà essere indicato chiaramente il tipo, l'entità ed il periodo dell'assistenza e della formazione fornita dall'Affiliante all'Affiliato.

Tali dati potranno essere contenuti in un allegato, aggiornabile periodicamente.

Inoltre, dovrà essere indicato chiaramente il know how fornito dall'Affiliante all'Affiliato.

## ART. 9 - L'ESCLUSIVA

Il contratto di Franchising dovrà indicare l'ambito di un'eventuale esclusiva territoriale sia in relazione ad altri affiliati, sia in relazione a canali ed unità di vendita direttamente gestiti dall'affiliante.

## ART. 10 - SCIoglimento DEL CONTRATTO

Il contratto di Franchising deve indicare chiaramente i possibili casi di scioglimento dello stesso.

L'eventuale risoluzione automatica del contratto, per inadempimento di una delle parti, dovrà essere limitata agli inadempimenti di clausole importanti per la corretta impostazione e gestione del sistema di Franchising. Per i casi di violazione di obbligazioni contrattuali di minore rilevanza, deve essere prevista una procedura di messa in mora della parte che ha commesso la violazione, per dare modo ad essa di sanare l'inadempimento. Il contratto deve, infine, espressamente indicare le condizioni dell'eventuale rinnovo, dell'eventuale cessione del contratto, nonché contenere specifiche previsioni relative alle obbligazioni delle parti dopo la cessazione dello stesso, per qualsiasi motivo intervenuta, in particolare per quanto riguarda la cessazione dell'uso dei segni distintivi dell'Affiliante, da parte dell'Affiliato.

## ART. 11 - SANZIONI

L'Associazione Italiana del Franchising vigilerà sulla corretta ed integrale osservanza, da parte dei propri Soci, delle norme contenute nel presente Codice Deontologico, nonché delle norme aventi forza di legge o di autoregolamentazione, che risultino applicabili ai rapporti di Franchising, sia a livello italiano che a livello europeo.

Nel caso di violazione delle suddette norme, l'Assofranchising potrà adottare, nei confronti dei Soci che ne siano responsabili, le sanzioni previste dall'art. 14 dello Statuto dell'Associazione, secondo la procedura in esso indicata.

Adeguate diffusione verrà data, tra i Soci, alle sanzioni adottate.

## EUROPEAN CODE of ETHICS for FRANCHISING: Assofranchising's national annex (in Italian & English) (1/1/1995; revised in May 2014)

### In English

#### INTRODUCTION

This **Code of Ethics** must be observed by all Members of the Associazione Italiana del Franchising. Its aim is to oblige Franchisees and Members of Assofranchising to adopt rules of conduct founded on the principles of propriety and professionalism.

Membership as an Assofranchising Franchisor thereby entails liability to these additional rules, which aim to encourage the establishment and performance of a proper Franchising relationship. This Code of Ethics integrates but - where there is a conflict - does not replace the provisions of law and self-regulation which are in force nationally and in Europe, which Members must therefore continue to observe scrupulously.

In the event that a conflict arises between this Code of Ethics and a provision of binding law, it will be Assofranchising's responsibility to modify the Code of Ethics as a result. In the meantime, Members shall automatically be released from observation of any of its rules which might conflict with such a regulation. This Code of Ethics presupposes a Member's strict observance of the ethical and self-regulatory rules prepared by the European Franchise Federation. The Code of Ethics must be coordinated with the latter to prevent any conflict arising, both in its interpretation and application. This Code of Ethics shall be periodically reviewed and updated, to ensure it is in line with the new regulations which must be adopted, both on the basis of legislation and voluntarily, on an Italian and European level.

#### ART. 1 – MEMBERS' OBLIGATIONS

Members are obliged to scrupulously observe all Italian laws regarding Franchising that is directly or indirectly applicable, in particular: law n. 129 of 6 May 2004 and Ministerial Decree n. 204 of 2 September 2005; the law contained in the Civil Code; the law in force concerning industrial and intellectual property rights, with specific reference to Legislative Decree n. 30 of 10 February 2005 (the so-called Code on industrial property); the law relating to the protection of competition with specific reference to Law n. 287 of 10 October 1990, and Legislative Decree n. 196 of 30 June 2003 (Code concerning personal data protection).

In addition, Members are obliged to scrupulously respect the European regulations regarding Franchising which are directly or indirectly applicable, both on a regulatory and voluntary basis, with particular reference to EU Regulation n. 330/2010, and the European Code of Ethics prepared by the European Franchise Federation. Finally, Members must scrupulously observe all the regulations contained in this Code of Ethics and in the Statute of Assofranchising.

Members' failure to observe the abovementioned obligations shall be punished in accordance with the provisions contained in Art. 11 below.

#### ART. 2 – MINIMUM PERIOD OF EXPERIENCE

Before building its own Franchising network, the Franchisor must have successfully tested its own formula on the market for a minimum period of 1 year, with at least one pilot unit where applicable.

#### ART. 3 – TRADEMARKS

The Franchisor must be the owner of a right for exclusive use of trademarks used in the context of the Franchising network. The registration, or in any event the filing, of such trademarks must occur in

accordance with the regulations in force. The limits of the registration or filing of trademarks - or of the licence (including its term and extent) granted to the Franchisor by a third party which has ownership of the trademarks themselves - must be specifically indicated in the Franchising contract. In the absence of registration or filing of the trademarks used, the Franchisor shall be obliged to provide the Franchisee with documentation proving concrete use of the trademarks.

#### **ART. 4 - PROVISIONAL FRANCHISING CONTRACT**

The use of a provisional franchising contract must be limited to cases where it is absolutely essential in allowing the Franchisor to properly pursue the development objectives of the franchising system. Such a contract must not however, under any circumstances, replace or add to the definitive franchising contract, either entirely or in part, and must clearly indicate the timescales and procedures for the set-up of the relationship and subscription to the definitive contract.

#### **ART. 5 – THE FRANCHISOR’S PRELIMINARY DUTIES FOR PROVIDING INFORMATION TO THE FRANCHISEE**

The Franchisor must provide the Franchisee with the following documentation, at least 30 days before the signing of the Franchising contract:

- a. a complete copy of the aforesaid Franchising contract, containing all the requirements required by law 129/2004 together with all related attachments, with the exception of those which are subject to objectives and specific confidentiality requirements, which must in any case be mentioned in the contract;
- b. at the Franchisee’s request, a copy of financial statements for the last three years, or, in any case, financial statements running from the date that its activity began if this occurred less than three years ago;
- c. a list of the Franchisees operating within the Franchising system, complete with addresses and telephone numbers or other contact details (fax, e-mail, etc.);
- d. a document containing an indication of the change year by year in the number of Franchisees, either in the last three years or from the date its activity began if this occurred less than three years ago;
- e. a document containing a summary description of any judicial proceedings initiated against it which might have been concluded in the last three years and which relate to the Franchising system in question, whether such proceedings were initiated by Franchisees or private third parties or public authorities;
- f. at the Franchisee’s request, an assumed profit and loss account based, if possible, on the average experiences of Franchisees in a similar position;
- g. a copy of this Code of Ethics and its annexes;
- h. a copy of the European Code of Ethics.

#### **ART. 6 – FRANCHISING CONTRACT**

At the moment that the request for admission to Assofranchising is presented, the Franchisor must deliver a copy of the Franchising contract to Assofranchising, accompanied by the relevant attachments, with the exception of those which are subject to objectives and specific confidentiality requirements, which must in any event be mentioned in all cases.

In addition, the Franchisor must deliver to Assofranchising all possible subsequent modified versions of its franchising contract in a timely fashion, so that Assofranchising always has a copy of the con-

tract in use at any given moment. The Franchising contract must be drawn up in writing, in a clear and exhaustive manner, and may lay down the Franchisee's obligation to adhere to the rules contained in the European Code of Ethics.

#### **ART. 7 - TERM OF THE CONTRACT**

The Franchising contract can have a fixed or indeterminate term. The Franchisee must however be guaranteed a minimum term to allow for depreciation of the investment made and this must, in any event, be no less than three years. This does not prejudice the scenario of early termination of the contract due to non-fulfilment of contractual obligations by one of the parties. Nevertheless, the permanence of the contract can be dependent on the Franchisee's attainment of minimum annual results, for example in terms of minimum levels of purchases or sales. Such minimum levels must be reasonable and based on previous experiences of the Franchising system, but adapted to the case in question, and must also be the result of assessments agreed between the parties.

#### **ART. 8 – TRAINING AND KNOW-HOW**

The type, extent and period of assistance and training provided by the Franchisor to the Franchisee must be clearly indicated in the Franchising contract. This data can be contained in an attachment which may be periodically updated. In addition, the know-how provided by the Franchisor to the Franchisee must be clearly indicated.

#### **ART. 9 - EXCLUSIVITY**

The franchising contract must indicate the scope of possible territorial exclusivity in relation to other franchisees, as well as with regard to distribution channels and sales units directly managed by the franchisor.

#### **ART. 10 – DISSOLUTION OF THE CONTRACT**

The Franchising contract must clearly indicate the possible scenarios for its dissolution. Any automatic termination of the contract due to non-fulfilment by one of the parties must be limited to non-fulfilment of clauses which are important for the proper set-up and management of the Franchising system. For cases where contractual obligations of minor importance are violated, a formal notice procedure must be set in motion for the party which committed the violation to provide a way for it to rectify the breach. The contract must in the end, expressly indicate the terms and conditions for possible renewal and possible transfer of the contract, as well as contain specific provisions relating to the obligations of the parties after its transfer, for any reason that may have arisen, in particular regarding transfer of the Franchisee's use of the Franchisor's distinctive signs.

#### **ART. 11 – PENALTIES**

The Associazione Italiana del Franchising ("Assofranchising") shall monitor the proper and complete observance by its own Members of the regulations contained in this Code of Ethics, as well as regulations which have legal or self-regulatory effect and are applicable in Franchising relationships both within Italy and Europe. In the event of any violation of the abovementioned regulations, Assofranchising may, against Members which are liable, enforce the penalties foreseen by art. 14 of the Association's Statute, according to the procedure indicated therein. Adequate disclosure of the penalties adopted shall be given to Members.

End of Assofranchising's Annexes to the Code of Ethics v.2014



## EUROPEAN CODE of ETHICS for FRANCHISING: the GFA's national annex (in Greek & English)

In Greek

### ΠΡΟΣΘΗΚΗ ΚΑΙ ΕΡΜΗΝΕΙΑ

Η παρούσα Προσθήκη κι Ερμηνεία αποτελεί αναπόσπαστο μέρος του Κώδικα Δεοντολογίας για το Franchising που υιοθετήθηκε από το Σύνδεσμο Franchise της Ελλάδας και στον οποίο τα μέλη του προσχωρούν.

#### 1. ΕΦΑΡΜΟΓΗ

Ο παρών Κώδικας Δεοντολογίας για το franchising αποτελεί μέρος της εγγράφου συμφωνίας μέλους μεταξύ του Συνδέσμου Franchise της Ελλάδος και των εταιριών μελών του. Κάθε παράβαση του παρόντος Κώδικα Δεοντολογίας για το Franchising από οποιοδήποτε μέλος του Συνδέσμου Franchise της Ελλάδας, θα θεωρείται παράβαση της συμφωνίας μέλους μεταξύ αυτού και του Συνδέσμου Franchise της Ελλάδας που θα εξετάζεται από το Πειθαρχικό του Συμβούλιο για κάθε σχετική συνέπεια. Δεν αποτελεί μέρος της συμβατικής σχέσης μεταξύ Δικαιοπαρόχου και Δικαιοδόχου, εκτός εάν αυτό έχει ρητά δηλωθεί από τον Δικαιοπάροχο. Τίποτα μέσα στον παρόντα Κώδικα δεν θα θεωρείται ότι αποτελεί παραίτηση του Δικαιοπαρόχου από το δικαίωμά του να πωλεί ή εκχωρεί τη συμμετοχή του σε μια επιχείρηση franchise.

#### 2. ΘΕΜΑΤΑ ΠΝΕΥΜΑΤΙΚΗΣ ΙΔΙΟΚΤΗΣΙΑΣ

Κανένα μέλος του Συνδέσμου Franchise της Ελλάδας δεν θα παραποιεί το σήμα, σύστημα, επωνυμία, εταιρική ταυτότητα, σλόγκαν ή άλλο σημείο αναγνώρισης άλλου Δικαιοπαρόχου με οποιονδήποτε τρόπο ή μορφή που θα είχε την τάση ή την δυνατότητα να παραπλανεί ή να παραποιεί.

#### 3. ΓΝΩΣΤΟΠΟΙΗΣΗ

Η αντικειμενικότητα του υλικού επιλογής Δικαιοδόχων (όρος 3) αναφέρεται συγκεκριμένα σε υλικό που είναι δημόσια ανακοινώσιμο, ειδικότερα:

- στη νομική μορφή οργάνωσης του Δικαιοπαρόχου ή / και του Κυρίως Δικαιοδόχου (αναλόγως) που περιλαμβάνει, ανάμεσα σε άλλα, τους σκοπούς της εταιρίας, την έδρα, την ταυτότητα και τη σχετική εμπειρία στο σύστημα του βασικού προσωπικού διαχείρισης του Δικαιοπαρόχου ή / και του Κυρίως Δικαιοδόχου (αναλόγως),
- στην περιγραφή της επιχείρησης franchise,
- στην πρόβλεψη του συνολικού κόστους του σχετικού με τη δημιουργία της επιχείρησης franchise,
- στη γενική περιγραφή των κυρίων χαρακτηριστικών του know – how,
- στην παροχή τεχνικής υποστήριξης από τον Δικαιοπάροχο ή / και την Κυρίως Δικαιοδόχο αναλόγως προς τον Δικαιοδόχο,
- στα ονόματα και διευθύνσεις του δικτύου franchise (με ειδική αναφορά στις υπάρχουσες επιχειρήσεις franchise στην Ελλάδα στην περίπτωση ενός Κυρίως Δικαιοδόχου),
- στον αριθμό των Δικαιοδόχων των οποίων η σύμβαση franchise έχει λυθεί μέσα στα δύο (2) προηγούμενα χρόνια και στους λόγους αυτής της λύσης,
- στην πληροφόρηση σχετικά με τις άδειες που τυχόν απαιτούνται από τη νομοθεσία για την ίδρυση και λειτουργία της επιχείρησης franchise,

- στα βασικά στοιχεία μιας σύμβασης franchise όπως δικαιώματα και υποχρεώσεις αμοτέρων των μερών, διάρκεια της σύμβασης, όροι ανανέωσης ή λύσης, όροι αποκλειστικότητας κλπ.,
- πληροφόρηση πάνω στη σύμβαση Κυρίως Δικαιοδόχου με την εξαίρεση των οικονομικών συμφωνιών ανάμεσα σε Δικαιοπάροχο και Κυρίως Δικαιοδόχο.

Αναγνωρίζεται ότι συζητώντας επιμέρους επιχειρηματικές προβλέψεις με Δικαιοδόχους, οι Δικαιοπάροχοι κάνουν μοιραία υποθέσεις που μπορούν να δοκιμασθούν μόνο με την πάροδο του χρόνου.

#### 4. ΕΜΠΙΣΤΕΥΤΙΚΟΤΗΤΑ

Για λόγους γενίκευσης του παρόντα Κώδικα Δεοντολογίας για το Franchising το know - how εκλαμβάνεται όπως ορίζεται στον Ευρωπαϊκό Κανονισμό περί ομαδικής απαλλαγής από το άρθρο 85 της Συνθήκης της Ρώμης. Εν τούτοις, για τους σκοπούς του όρου 3.6 του Ευρωπαϊκού Κώδικα Δεοντολογίας γίνεται δεκτό ότι οι Δικαιοπάροχοι μπορούν να επιβάλλουν όρους μη ανταγωνισμού και απορρήτου για να προστατεύσουν άλλες πληροφορίες και συστήματα που μπορεί ευλόγως να εκληφθούν σαν ουσιώδη στη λειτουργία του franchise.

#### 5. ΓΛΩΣΣΑ ΣΥΜΒΑΣΗΣ

Οι Δικαιοπάροχοι θα πρέπει να εξασφαλίζουν στους Δικαιοδόχους συμβάσεις σε γλώσσα που να είναι αντιληπτή σ'αυτούς. Συνιστάται Δικαιοπάροχοι και Δικαιοδόχοι να χρησιμοποιούν την ορολογία franchise που υιοθετήθηκε από τον Σύνδεσμο Franchise της Ελλάδας.

## EUROPEAN CODE of ETHICS for FRANCHISING: the GFA's national annex (in Greek & English)

### In English

#### EXTENSION AND INTERPRETATION

This Extension and Interpretation forms an integral part of the Code of Ethics for Franchising adopted by the Franchise Association of Greece and to which its members adhere.

#### 1. APPLICATION

This Code of Ethics for Franchising forms part of the membership written agreement between the Franchise Association of Greece and its member companies. Any violation of this Code of Ethics for Franchising by any of the members of the Franchise Association of Greece shall be deemed as breach of such member's membership agreement with the Franchise Association of Greece examined by its Disciplinary Committee for any relevant consequence. It does not form any part of the contractual agreement between Franchisor and Franchisee unless expressly stated to do so by the Franchisor. Neither should anything in this Code be construed as quitting a Franchisor's right to sell or assign its interest in a franchised business.

#### 2. INTELLECTUAL PROPERTY ISSUES

No member of the Franchise Association of Greece shall imitate the trademark, system, tradename, corporate identity, slogan or other mark of identification of another Franchisor in any manner or form that would have the tendency or capacity to mislead or deceive.

#### 3. DISCLOSURE

The objectivity of recruitment literature (Clause 3.2.) refers specifically to publicly available material, namely to:

- the corporate status of the Franchisor and/or the Master Franchisee (where applicable) including but not limited to the company purpose, registered address, the identity and relevant experience of the system key management personnel of the Franchisor and/or the Master Franchisee (where applicable),
- financial information of the Franchisor and/or the master Franchisee (where applicable),
- business history of the Franchisor and/or the Master Franchisee (where applicable),
- a description of the franchised business,
- an estimate of the total costs associated with establishing a franchised business,
- a general description of the principal characteristics of the know-how,
- the provision of technical support by the Franchisor and/or the Master Franchisee (where applicable) to the Franchisee,
- names and addresses of the franchise network (with special reference to the existing franchised businesses in Greece in the case of a Master Franchisee),
- the number of Franchisees whose franchise agreement have been terminated over the previous two (2) years and the reasons for such termination,

- information relating to all licenses required by law for the establishment and operation of a franchised business,
- the essential elements of the franchise agreement such as rights and obligations of both parties, the duration of the agreement, conditions of renewal or termination, exclusivity clauses etc,
- information on the master franchise agreement with the exception of the financial arrangements between Franchisor and Master Franchisee.

It is recognized that in discussing individual business projections with Franchisees, Franchisors are invariably involved in making assumptions which can only be tested by the passage of time.

#### 4.CONFIDENTIALITY

For the generality of this Code of Ethics for Franchising “know-how” is taken as being as defined in the European Block Exemption to Article 85 of the Treaty of Rome. However, for the purposes of Article 3.4. of the European Code of Ethics it is accepted that Franchisors may impose non-competition and secrecy clauses to protect other information and systems where they may be reasonably regarded as material to the operation of the franchise.

#### 5. CONTRACT LANGUAGE

Franchisors should seek to ensure that they offer to Franchisees contracts in a language in which the Franchisee is competent. It is recommended that Franchisors and Franchisees use the original franchise terminology adopted by the Franchise Association of Greece.

End of the Greek Franchise Association’s Annexes to the Code of Ethics v.2010

## EUROPEAN CODE of ETHICS for FRANCHISING: the NFV's national annex (in Dutch & English)

### In Dutch

#### NEDERLANDSE EXTENSIES: DE 10 BULLETPOINTS

De in artikel 3.3 van de European Code of Ethics for Franchising genoemde informatie en documentatie behelzen:

1. Informatie met betrekking tot het bedrijf en de financiële positie van de Franchisegever \*(Ad 1) ;
2. De bij de franchiseorganisatie betrokken personen \*(Ad 2);
3. Het aangeboden franchise-concept inclusief, indien van toepassing, gegevens omtrent de pilot-vestiging;
4. Een compleet en recent overzicht van aangesloten franchisenemers, hun vestigingsadressen, telefoonnummer en e-mailadres;
5. Financiële ramingen c.q. prognoses, indien beschikbaar;
6. De franchiseovereenkomst;
7. Bankreferenties \*(Ad 3);
8. Gegevens omtrent een eventueel lidmaatschap (van de franchiseorganisatie) van brancheorganisaties en/of van de Nederlandse Franchise Vereniging;
9. Een verklaring of er al dan niet sprake is geweest van een eerdere franchise vestiging in het rayon van de kandidaat franchisenemer en, zo ja, de reden(en) van beëindiging van deze onderneming;
10. Informatie over verdere distributiekkanalen/-vormen \*(Ad 4) van de producten of diensten van de franchisegever en het e-commerce beleid.

\* (Ad 1) "financiële positie": een bij de Kamer van Koophandel gedeponeerde balans is voldoende, hoewel meer informatie welkom is.

\* (Ad 2) "betrokken personen": hiermede worden met name en vooral grootaandeelhouders en/of directieleden bedoeld.

\* (Ad 3) "bankreferenties": niet wordt bedoeld een verklaring van goed gedrag, maar de naam van de huisbankier, bij wie via de eigen bank informatie kan worden ingewonnen.

\* (Ad 4) "verdere distributiekkanalen/-vormen": Deze informatie is van belang bij bedrijven die bijvoorbeeld ook e-commerce ontploien.

### **In English:**

Article 3.3 of the European Code of Ethics for Franchising requires the disclosure to the prospective franchisee of information and documentation relevant to the franchise offer. These will include:

1. Information about the franchisor's franchise company and its financial situation/position. (\*Ad 1.: A Balance sheet, audited & filed at the Chamber of Commerce is sufficient);
2. the persons involved with the franchisor's company (\*Ad 2. This refers to shareholders and staff, not employees);
3. A description of the concept, including facts about a pilot unit, if any;
4. A list of the network's franchisees, address of the outlet, telephone number and e-mail address;
5. Financial estimates or forecasts, if available;
6. The franchise agreement;
7. Bank referents (\* Ad 3. "bankreferenties" means providing the identity of the bank at which the franchisor has its main company account. The bank may also provide the franchisee with a written statement confirming the franchisor as a bank customer without this being a certificate of good repute);
8. information concerning the franchisor's eventual membership to a professional association such as the NFV, the Netherlands Franchise Association;
9. A statement from the franchisor indicating if the exclusive territory allocated was previously allocated to a franchisee and the reason why this agreement was terminated;
10. Information about the franchisor's other distribution channels of products and/or services as well as about its e-commerce policy. (\*Ad 4. "other distribution channels" is important to specify, in particular, if the franchisor also operates its own e-commerce business channel).

End of the Nederlandse Franchise Association's Annexes to the Code of Ethics v.2016

## EUROPEAN CODE of ETHICS for FRANCHISING: the SF's national annex (in Swedish & English)



In Swedish:

### VID SVENSK FRANCHISE ÅRSMÖTE 24/3 2018 FASTSTÄLLDES DESSA NATIONELLA TILLÄGG TILL

De **Etiska reglerna för franchising i Europa** ("Koden") är en samling viktiga bestämmelser för hur förhållandet ska regleras mellan en franchisegivare och dess franchisetagare, som utövar verksamhet tillsammans inom ramarna för ett franchisenätverk. Svensk Franchise har fastställt att den senaste versionen av Koden (6 december 2016), i översatt version, ska gälla för organisationens verksamhet i Sverige. Koden finns upplagd på Svensk Franchise hemsida.

Svensk Franchise, som är medlem i EFF, har möjlighet att göra ett nationellt tillägg till och/eller en tolkning av Koden, såvida tillägget eller tolkningen inte avviker från reglerna eller leder till att Koden misstolkas.

Styrelsen fastställer vid årsmötet 2018 följande nationella tillägg:

- A. I definitionen av franchising anges att det ska avse ett "samarbete mellan juridiskt och ekonomiskt separata och oberoende företag". I Sverige förekommer ett antal franchisekoncept där franchisetagare är delägare i franchisegivaren. Det förekommer också andra franchisekoncept där franchisegivare erbjuder franchisetagare finansieringshjälp (typ 91-9-modellen). **Tolkningen från Svensk Franchise är att visst ekonomiskt beroende mellan franchisegivare och franchisetagare, inte diskvalificerar ett franchisekoncept att anses bedriva franchising.**
- B. I definitionen av franchising anges också att "Franchisetagaren har rätten och skyldigheten, mot direkt eller indirekt ersättning". I Sverige förekommer franchisekoncept där franchisetagaren inte ger direkt eller indirekt ersättning för rätten att använda affärskonceptet, t.ex. social franchising. **Tolkningen från Svensk Franchise är att utevaron av direkt eller indirekt ersättning från franchisetagare till franchisegivare, inte diskvalificerar ett franchisekoncept att anses bedriva franchising.**
- C. I de vägledande principerna, pkt 2.2 (i), anges att franchisegivaren ska ha varit aktiv, "på den berörda marknaden". **Tolkningen från Svensk Franchise är att ordet "marknaden" avser den varu- eller tjänstemarknad som franchisekonceptet avser och inte den geografiska marknaden.**

## EUROPEAN CODE of ETHICS for FRANCHISING: the SF's national annex

In English:

### THE SVENSK FRANCHISE ANNUAL GENERAL MEETING OF 24 MARCH 2018 ESTABLISHED THE FOLLOWING NATIONAL EXTENSIONS TO THE

The **European Code of Ethics for Franchising** ("the Code") is an ensemble of essential provisions for the governance of the relations between a franchisor and its franchisees, operating together in the framework of a franchise network. Svensk Franchise has established that the latest revision of the Code (published 6 December 2016), in its translated version, shall apply to the organisation's activities in Sweden. The Code is posted on the Svensk Franchise website.

Svensk Franchise, which is a member of the EFF, has an opportunity to make national extensions to and/or interpretations of the Code, provided that the extensions or interpretations comply with the provisions and do not lead to misinterpretation of the Code.

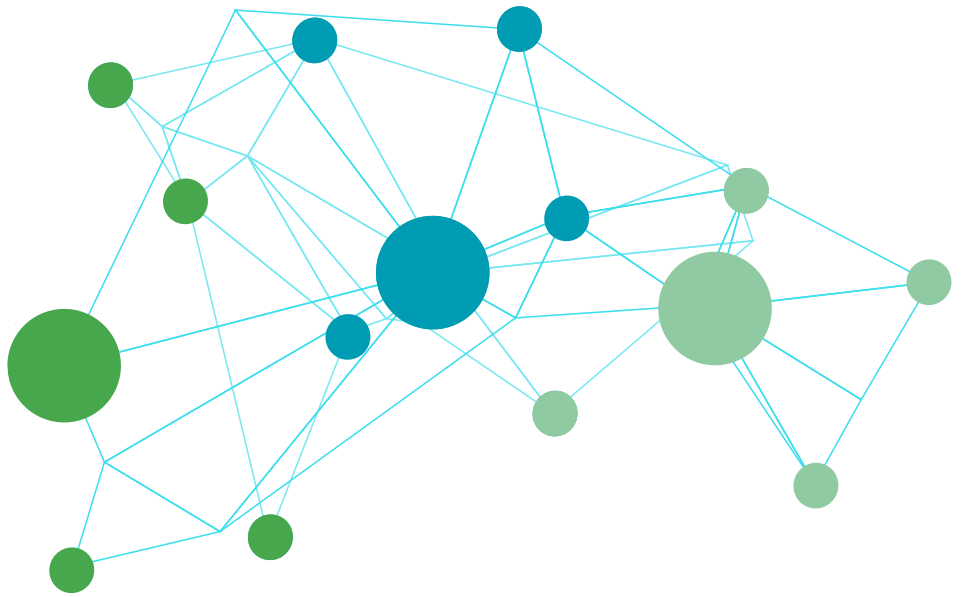
At the 2018 AGM, the Board of Directors of Svensk Franchise established the following national extensions:

- A. The definition of franchising states that franchising is based on "*collaboration between legally and financially separate and independent undertakings*". In Sweden there are various franchising concepts where the franchisee is a part-owner of the franchisor. There are also other franchising concepts in which the franchisor offers help with financing to franchisees (such as the 91-9-model). **Svensk Franchise's interpretation is that some financial dependence between the franchisor and franchisee does not disqualify a franchising concept from being deemed a valid franchising operation.**
- B. The definition of franchising also states that "*the right entitles and compels the individual Franchisee, in exchange for a direct or indirect financial consideration*". In Sweden there are franchising concepts whereby the franchisee does not provide direct or indirect financial consideration for the right to use the business concept, e.g. social franchising. **Svensk Franchise's interpretation is that the absence of direct or indirect financial compensation does not disqualify a franchising concept from being deemed a valid franchising operation.**
- C. The Guiding Principles, Section 2.2 (i), state that the franchisor should have been active "*in the relevant market*". **Svensk Franchise's interpretation is that the word "market" refers to the product or service market to which the franchising concept relates, and not to the geographical market.**

End of the Swedish Franchise Association's Annexes to the Code of Ethics v.2018









## Members of the EUROPEAN FRANCHISE FEDERATION - EFF

<b>Belgium</b>	FEDERATION BELGE DE LA FRANCHISE - FBF BELGISCHE FRANCHISE FEDERATIE - BFF BELGIAN FRANCHISE FEDERATION	<a href="http://www.fbf-bff.be">http://www.fbf-bff.be</a>
<b>Britain</b>	BRITISH FRANCHISE ASSOCIATION – thebfa	<a href="http://www.thebfa.org">www.thebfa.org</a>
<b>Croatia</b>	HRVATSKA UDRUGA ZA FRANŠIZNO POSLOVANJE - FIP CROATIAN FRANCHISE ASSOCIATION	<a href="http://www.fip.com.hr">www.fip.com.hr</a>
<b>Czech Rep.</b>	ČESKÁ ASOCIACE FRANCHISINGU - CAF CZECH FRANCHISE ASSOCIATION	<a href="http://www.czech-franchise.cz">www.czech-franchise.cz</a>
<b>Denmark</b>	FRANCHISE DENMARK - DFF DANISH FRANCHISE ASSOCIATION	<a href="http://www.franchisedenmark.org/">http://www.franchisedenmark.org/</a>
<b>Finland</b>	SUOMEN FRANCHISING-YHDISTYS RY - SFY FINNISH FRANCHISING ASSOCIATION (FFA)	<a href="http://www.franchising.fi">www.franchising.fi</a>
<b>France</b>	FEDERATION FRANÇAISE DE LA FRANCHISE – FFF FRENCH FRANCHISE FEDERATION	<a href="http://www.franchise-fff.com">www.franchise-fff.com</a>
Greece	GREEK FRANCHISE ASSOCIATION - GFA	<a href="http://www.franchise.org.gr/en/home/">http://www.franchise.org.gr/en/home/</a>
Hungary	MAGYAR FRANCHISE SZÖVETSÉG - MFSZ HUNGARIAN FRANCHISE ASSOCIATION	<a href="http://www.franchise.hu">www.franchise.hu</a>
Italy	ASSOCIAZIONE ITALIANA DEL FRANCHISING - ASSOFRANCHISING - AIF ITALIAN FRANCHISE ASSOCIATION	<a href="http://www.assofranchising.it">www.assofranchising.it</a>
Netherlands	NEDERLANDSE FRANCHISE VERENIGING -NFV NETHERLANDS FRANCHISE ASSOCIATION	<a href="http://www.nfv.nl">www.nfv.nl</a>
Poland	POLSKA ORGANIZACJA FRANCYZODAWCÓW- POF POLISH FRANCHISE ORGANIZATION - PFO	<a href="http://franchise.org.pl/">http://franchise.org.pl/</a>
Portugal	ASSOCIAÇÃO PORTUGUESA DA FRANCHISE -APF PORTUGUESE FRANCHISE ASSOCIATION	<a href="http://www.associacaofranchising.pt/">http://www.associacaofranchising.pt/</a>
Slovakia	SLOVENSKÁ FRANCHISINGOVÁ ASOCIÁCIA - SFA SLOVAKIAN FRANCHISE ASSOCIATION-SFA	<a href="https://sfa.sk/">https://sfa.sk/</a>
Slovenia	Trgovinska zbornica Slovenije Sekcija slovenskih franšiznih družb SEKCIJA ZA FRANŠIZING - SFA SLOVENIAN FRANCHISE ASSOCIATION-SFA	<a href="https://www.tzslo.si/sl/o-tzs/strokovne-komisije-in-sekcije/sekcija-slovenskih-fransiznih-druzob">https://www.tzslo.si/sl/o-tzs/strokovne-komisije-in-sekcije/sekcija-slovenskih-fransiznih-druzob</a>
Spain	ASOCIACIÓN ESPAÑOLA DE FRANQUICIADORES - AEF SPANISH FRANCHISE ASSOCIATION	<a href="http://www.franquiciadores.com">www.franquiciadores.com</a>
Sweden	SVENSK FRANCHISE - SF SWEDISH FRANCHISE ASSOCIATION – SF	<a href="http://svenskfranchise.se/">http://svenskfranchise.se/</a>
Turkey	FRANCHISING DERNEĞİ - UFRAD TURKISH FRANCHISE ASSOCIATION	<a href="http://www.ufrad.org.tr">www.ufrad.org.tr</a>



# ethics

FOR FRANCHISING

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