

## **A Practical Look At Franchising!**

**By Ken M. Hollowell**

There comes a time in the evolution of every business that a decision needs to be made concerning whether or not to expand to reach a larger marketplace and, if so, the best method to achieve that goal.

Franchising, which is one method of expansion, has become increasingly popular in the past three decades. There is no doubt as to its success but the important questions are whether it is right for you and whether you are ready to be a franchisor. To help you answer those questions, let's explore what being a franchisor requires, mentally, physically and financially.

You first need to understand that franchising is a business in and of itself. Your existing business (the underlying concept which you want to franchise) is another business. It is necessary, therefore, for you to begin adjusting your thinking to the new business at hand. It is, of course, advantageous to have a unique or superior product or service concept to offer to the public; however, it will not hold up well without a good franchise system built around it. Conversely, some less than outstanding concepts have made a name for themselves as a result of a superior franchise system.

The single most important aspect of any franchise system is the trademark or service mark which is being licensed to the franchisee. Your first priority should be to design a unique mark by which your franchise system and its products or services will be identified. You then must search the files of the federal government and the states in order to determine whether anyone else is presently using the same or a similar mark. If you have a green light, you must proceed to secure a registration of that mark for yourself. Your franchise agreement must protect your interest in those marks and you must set up strict and well enforced standards for the franchisee to follow so as not to endanger those marks.

The offer of a franchise is subject to state and federal regulations. The penalties for failure to comply with those laws can be damaging both to our pocketbook and your reputation. You must present prospective franchisees with a specially prepared disclosure document (known as an offering circular) in strict compliance with those regulations at least ten business days before they sign the franchise agreement or pay you any money. There are also fifteen states which may require you to register the offering and submit the disclosure for review before marketing can occur within their jurisdictions. Furthermore, any form of advertising which is used to solicit a prospective franchisee must comply with governmental regulations.

There is more to being a franchisor than simply having a franchise agreement and an offering circular. The franchisees who receive that disclosure and eventually sign the agreement must be trained to operate an outlet in an organized manner. Therefore, an operations manual must be prepared and a training program should be in place. A staff of qualified individuals who will run the franchisor's organization and train the franchisees must be assembled. Once again, remember that franchising is a different business. Thus any existing manual which merely outlines the day-to-day conduct of your present business will not be adequate to explain to a franchisee how he or she is to operate your concept. You should develop a program of continual field support to assist franchisees with problems which they may encounter in daily operations of the outlet. The team assigned to that function will also monitor and report on the franchisee's compliance with your standards. The creation of an aggressive advertising campaign to promote your franchised outlets and the image which you wish them to convey to the marketplace is of utmost importance.

Although federal and state regulations do considerably inhibit your ability as a new franchisor to indicate the income potential of an outlet to a prospective franchisee, it is still wise to have a prototype of the typical outlet in existence in order to indicate the viability of the concept and your actual hands-on experience in its operation.

It is also advantageous from a sales standpoint to have an actual facility which a prospective franchisee can visit since you will be engaged in a new business (franchising), your existing business needs to be secure enough to function without your daily participation. Likewise, do not expect to raid the ranks of your present organization in order to staff the new business. Remember, they must be replaced.

To be a successful franchisor, you must be committed to meet these and other requirements. However, it is very possible for you to do this in an efficient manner with help from individuals experienced in the franchising process – so long as they have your best interests at heart.

You have, no doubt, heard of the fantastic sums of money which a franchisor may gain from a franchise system by way of the initial franchise fee, monthly royalty payments and contributions to the advertising budget from franchisees. Although you may eventually realize great income from your franchise system, the road leading up to that result could be expensive. We believe in teaching the client to do or oversee as much of the work the client is willing to do himself. This will save the client a healthy portion of the fees which some development and consulting firms charge. The major advantage is that the client receives a greater understanding of what franchising is all about and receives first hand training on how to become a quality franchisor, rather than relying on others who may not have your total interest at heart.

Proper franchise development does take time. Depending upon the extent to which you wish to market your offering, you should be prepared to devote six months to one year to that task. Don't expect to create the necessary documentation overnight and head straight to marketing. You need to be trained to think and act like a franchisor, to learn the new business that you are in and the obligations that it entails and to make intelligent, informed decisions regarding the structure of the franchise system. In addition, registration of your offering with a state regulatory agency can take a good deal of time and patience.

Who should you choose to develop your franchise system? Attorneys will normally only handle the franchise agreement, the offering circular and the registration. Attorneys with a true background in franchising are few in number and high in price. All others will be learning the ropes at your expense – and they charge by the hour. Most attorneys will provide you with a document which may be “legal” but which is rarely constructed from the standpoint of a businessman or a marketing specialist. We take every client and their individual needs seriously. We are dedicated to teaching, informing, educating and training franchisors in how to effectively and professionally become the best franchisor possible. Our basic philosophy is to teach the client to do as much as he can, while providing expert assistance in those areas the client decides not to accomplish himself. We think that's keeping your best interests at heart.