



Determining the viability of franchising your business

by Charles Modell

TIPS

- 1. Franchisors must have a “secret sauce”** that franchisees cannot live without to ensure they stay with the system.
- 2. Franchisees should not be the testing centers for your concept.** The likelihood that they follow your system increases if you can show them a successful prototype.
- 3. Put your standards and procedures in writing** so franchisees know what they need to do to improve their chances for success.
- 4. Have a trademark attorney search for other users of your business name.** Assuming no conflicts, register your trademark with the U.S. Patent and Trademark Office.
- 5. Make sure you follow laws** regarding disclosure documents to prevent problems registering when you are ready to do so.

MANY SUCCESSFUL storefront business owners receive inquiries about selling a franchise to someone wanting to operate a similar business across town or in another city. There are many success stories in franchising. Some Minnesota franchise companies, like Dairy Queen and National Car Rental, have been around for decades. Others, like Buffalo Wild Wings, grew from zero to several hundred in just a few years. Anytime Fitness became a worldwide brand with more than 3,000 locations in 15 years.

Should you franchise your business?

Franchising is not for everyone. Ask yourself the following questions before deciding to franchise your business. If the answer is “no” to any question, you should think twice about embarking on a franchise program.

- 1. Can your business be replicated?** While your current business may be successful, can others succeed in that business? If you are successful primarily because of your personality, a unique set of skills, or a unique location, the answer is probably “no.”
- 2. Is there enough profit in the business?** As interesting or exciting as your business might be, people go into business to make money, or at least earn a living. If there is not enough profit in the business for your franchisees to pay you a royalty that justifies you getting into the franchise business, and for them to earn a decent living and repay their initial investment, you should not be franchising.
- 3. Will your franchisees need**

you two years from now? Once you have taught your business to someone, why will they keep paying you royalties? Having a well-written binding agreement is a start, but to be a successful franchise, you need something that franchisees cannot live without — a “secret sauce” — that keeps them in the system. For large companies, the secret sauce may be a multimillion-dollar monthly advertising budget or nationwide customer loyalty program that locks customers into the system. For smaller businesses, the answer often starts with a catchy name, but once the franchisee has built up its own customers, you need something more. Some franchisors have unique suppliers available to their franchisees or supplier discounts that exceed the royalty paid by franchisees. Others have a strong and loyal customer base, built through extensive public relations and social media. For companies in the food business, the answer might literally be a secret sauce that makes their menu items unique. Before you embark on a franchise program, be certain you have a “secret sauce” that will keep franchisees loyal to the system after they think they know it all.

- 4. Do you have a successful prototype?** Your franchisees should not be the testing centers for your concept. Although there is no rule that requires it, the likelihood that your franchisees will follow your system improve dramatically when you can show them a successful prototype.

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Steps to Take to Franchise Your Business.

Assuming you answered “yes” to all the above questions, your business could be successful as a franchise. Here are the next steps you should take to ready your business for franchising.

- 1. Protect your name** — Have a trademark attorney run a trademark search to determine if there are other users of your business’ name, and if there are, whether they have senior rights that will prevent you from expanding under that name. If the search uncovers no conflicts, register your trademark with the United States Patent and Trademark Office. You can offer franchises before the trademark has achieved registration, but you should begin the process immediately because it can take 15 months or more to obtain the registration.
- 2. Start creating manuals for your business** — You need to systematize your operations, but you also need to put your standards and procedures in writing. One prominent multi-unit franchisee referred to the manual as the “coloring book” that he gives to his employees. Your franchisees should be successful as long as they “color within the lines,” but you need to draw the lines for them.
- 3. Solidify your relationships with vendors** — You likely have unique relationships with vendors, whether they are product vendors for retail stores, ingredient vendors for a food-related business, or equipment vendors. Can these vendors service multiple franchisees in multiple markets? If not, think about how franchisees in other markets will obtain the benefits that you purport to offer them. If your vendors can handle

this additional business, lock down your sources of supply with long-term contracts.

- 4. Raise money** — It takes less capital to help 50 people open 50 businesses than it does to open 50 businesses yourself. However, it still takes significant capital to train and assist 50 franchisees. It also takes time and money to structure your franchise offering and to sell franchises. Funding these initial costs from your current cash flow can be difficult and may put you in arrears with your suppliers and vendors.
- 5. Comply with franchise laws** — Federal law requires you to prepare and deliver to prospective franchisees an extensive disclosure document before they pay you any money or sign any agreements with you. Minnesota and a dozen other states have laws requiring you to register that document before offering franchises. If you even advertise the availability of franchises before complying with these laws, you may have trouble registering when you are ready to do so. If you fail to comply with these laws, your franchisees may also have rights against you if they decide they no longer want to be part of your franchise system. Thus, before taking the next step, consult with an attorney well versed in franchise law.

Conclusion

Franchising is not right for every business. And the road to success in franchising is filled with potholes. However, if you plan ahead, understand the new business you are embarking upon, and have knowledgeable people assisting you, you could be the next success story in franchising.



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