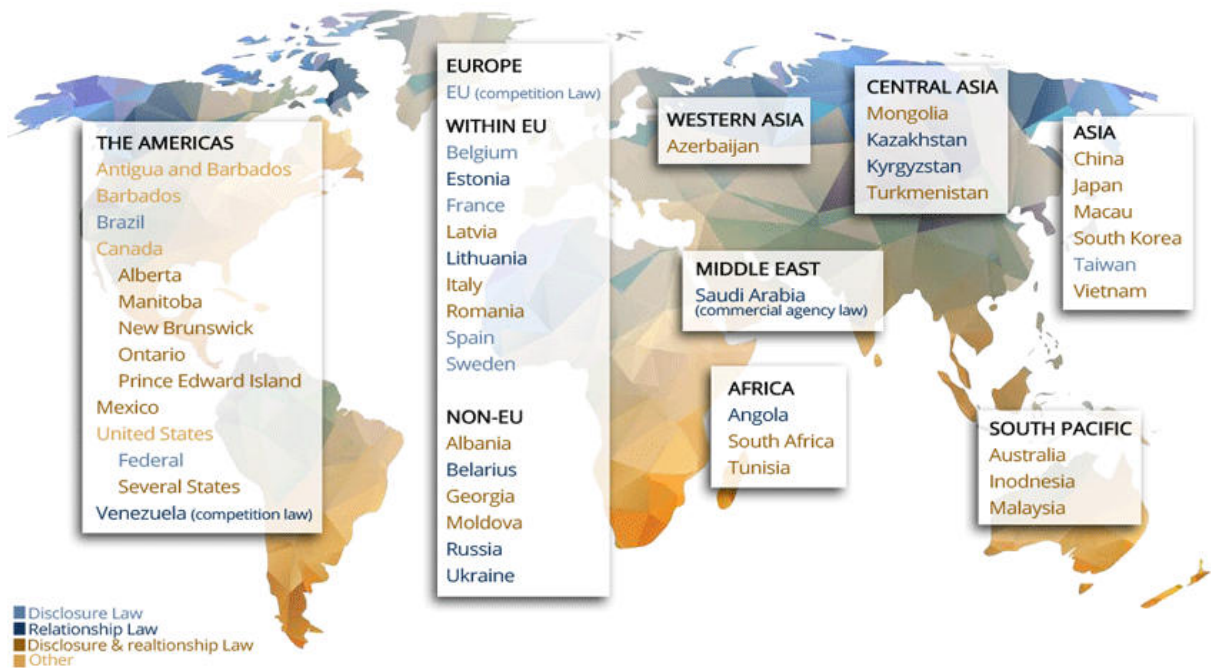




INTERNATIONAL RESOURCES ABSTRACT

Laws and agencies that regulate the offer and sale of franchises



CHILE



CHILE

Laws and agencies that regulate the offer and sale of franchises

Which laws and government agencies regulate the offer and sale of franchises?

There is no franchise law or statute in Chile. General principles on contract law as provided for in the Civil and Commercial Codes would apply. There is no governmental agency that regulates or has oversight on the offer and sale of franchises.

Does any law or regulation create a requirement that must be met before a franchisor may offer franchises?

There is no express, written rule on pre-sale disclosure, although franchisors shall be advised that preliminary, pre-contract negotiations must be conducted in accordance with the general legal principle of negotiating in good faith which obliges the parties to observe their duty of loyalty to the other party during the negotiations.

Do other laws affect the franchise relationship?

Chile has a Competition Law (Decree Law 211 of 1974, as amended) that has been in effect since 1974 and the only restriction that is generally applicable to franchising relates to exclusive or designated supplier provisions, which are permitted as long as they are linked to the necessity for maintaining the quality of the system.

Chilean Law permits in-term covenants against competition. However, post-termination covenants against competition have been held to violate the constitutional right to work and are thus unenforceable unless the franchisee would be compensated for the relinquishment of its right to work. The appropriate amount of compensation can be determined by the parties prior to contact or by a court at the time of enforcement. A reasonable approximation of profits during the restricted time should suffice. Few franchisors actually compensate franchisees for post-termination covenants. Instead, they include post-termination covenants against competition in the franchise agreement merely for deterrence purposes because their inclusion does not void or otherwise affect the remaining provisions in the franchise agreement.