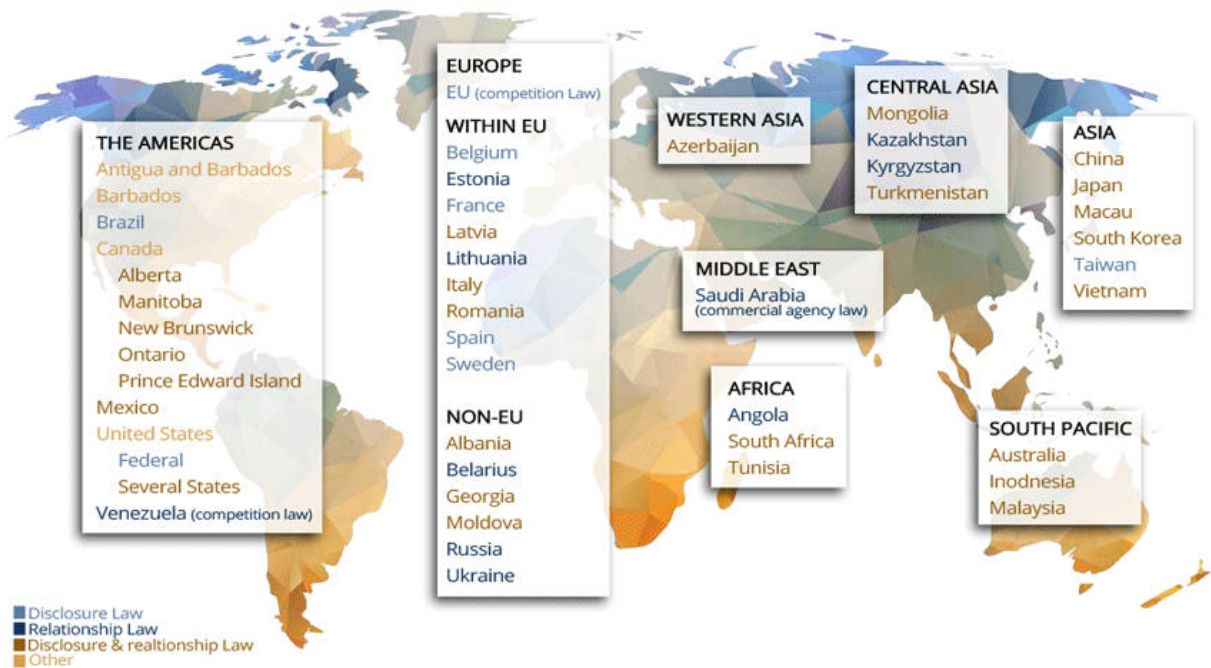




INTERNATIONAL RESOURCES ABSTRACT

Laws and agencies that regulate the offer and sale of franchises



DENMARK



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

No government agencies regulate the offer and sale of franchises, and there is no specific legislation regulating this area.

The overall principle in Danish contract law is the principle of freedom of contract. However, the drafting of a franchise agreement may be restricted by various mandatory rules. In particular, the rules in certain statutory regulations such as the Competition Act, the Marketing Practices Act, the Commercial Leasing Act and others may restrict the terms of a franchise agreement.

Furthermore, the Danish Franchise Association provides certain ethical standards in its Code of Ethics for Franchising, which are binding for its members.

What are the exemptions and exclusions from any franchise laws and regulations?

See previous question

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

There are no laws or regulations on this matter. The Danish Franchise Association has set out some ethical standards in its Code of Ethics for Franchising, which only bind its members. According to these standards the franchisor shall have operated a business concept with success for a reasonable time and at least one unit before establishing a franchise system. Furthermore, it is required that the franchisor is the legal owner of its trademarks.

Are there any laws, regulations or government policies that restrict the manner in which a franchisor recruits franchisees or selects its or its franchisees' suppliers?

There are no Danish laws, regulations or government policies that restrict the number of franchises or franchisees, or on what basis the franchisor selects its franchisees or the franchisees suppliers.

However, Danish competition law, which is similar to EU competition law in all material aspects, may regulate franchise agreements.

In the case of a sub-franchising structure, who must make pre-sale disclosures to sub-franchisees? If the sub-franchisor must provide disclosure, what must be disclosed concerning the franchisor and the contractual or other relationship between the franchisor and the subfranchisor?

There is no legislation regarding disclosure prior to entering into a franchise or sub-franchise agreement in Denmark. However, it is possible that the outcome of a dispute between a franchisee and a franchisor (or a sub-franchisor and a sub-franchisee) regarding interpretation of the franchise agreement will be affected by which party had access to the relevant information before the agreement was entered into.



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If it is found that the franchisor (or the sub-franchisor) has not supplied the franchisee (or the sub-franchisee) with relevant and adequate information before entering into the agreement, this will probably have a negative impact on the outcome of the dispute for the franchisor.

Is there any obligation for continuing disclosure?

See previous questions

How do the relevant government agencies enforce the disclosure requirements?

See previous questions

In addition to any laws or government agencies that specifically regulate offering and selling franchises, what are the general principles of law that affect the offer and sale of franchises? What other regulations or government agencies or industry codes of conduct may affect the offer and sale of franchises?

The parties are free to decide the contents of their agreement but also which contracts they will make and who they choose as contract partners. There are no specific laws or governmental agencies in this matter.

The Danish Franchise Association has set out some ethical standards in its Code of Ethics for Franchising that are binding only for its members.

Do other laws affect the franchise relationship?

Various laws affect directly or indirectly the relationship between the franchisor and the franchisee. Laws such as the Commercial Lease Act, the Competition Act, the Marketing Practices Act, the Product Liability Act, the Personal Data Act and the Taxation Acts shall all be continuously adhered to by the parties.