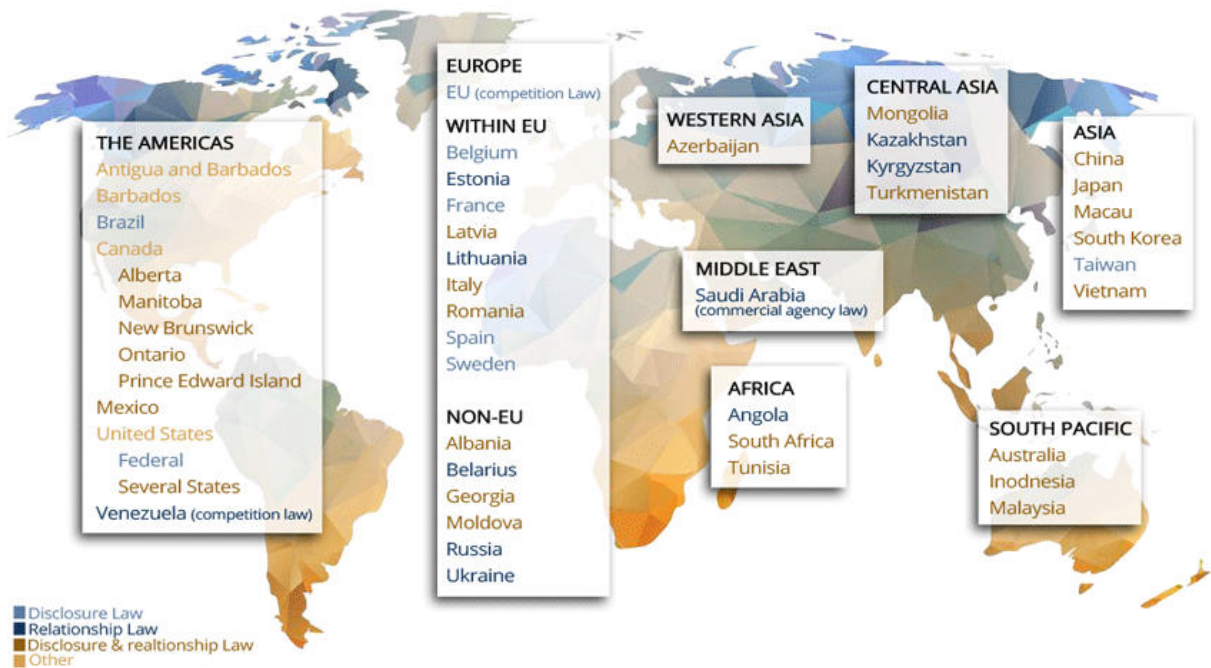




INTERNATIONAL RESOURCES ABSTRACT

Laws and agencies that regulate the offer and sale of franchises



GUATEMALA



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

There is no specific law or government agency in Guatemala that regulates the offer and sale of franchises. Any offer and sale is subject to general commercial laws and practices.

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

Guatemalan law does not provide any exemptions or exclusions regarding franchises. Franchisor and franchisee establish the provisions of their relationship in the franchise agreement and this agreement becomes 'law' between the parties.

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

There is no law or regulation in Guatemala that creates a requirement that must be met before a franchisor may offer franchises. The franchise is only subject to the general principles applicable to all contracts and agreements, commercial practices and uses.

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?

The franchise agreement must establish the authorisation or prohibition on the franchisee to give sub-franchises. In such an agreement, the franchisor reserves the right to establish the provisions of the sub-franchise.

Is there any obligation for continuing disclosure?

Only if the disclosure document establishes it. The parties may contractually agree that confidentiality will be maintained for the term deemed convenient by both parties. This term may be months or years. Moreover, confidentiality may be established for the duration of the franchise relationship or for an indefinite term if the parties expressly provide for it.

How do the relevant government agencies enforce the disclosure requirements?

There are no government agencies that enforce disclosure requirements in Guatemala. Both parties, by mutual consent, decide which documents should be disclosed. If a franchisor or franchisee decides not to disclose a document that it is required to disclose in the agreement, such disclosure can be forced by means of a court order.



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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?

Any offer and sale of franchises is subject to general commercial law and practices. If an offer is made by the franchisor, such an offer has to be accepted by the franchisee in order to finalise an agreement.

Guatemalan commercial law states that a signed document is not a requirement to have a commercial relationship of any kind. The agreement, in these cases, will be determined by the practices of such a commercial relationship. It is important to note that a franchise contract is necessary in order to determine the rights and obligations of both parties. In the case of selling a franchise, there has to be an agreement between the parties.

Do other laws affect the franchise relationship?

Commercial laws regulate the franchise relationship in Guatemala but are only supplementary to what is agreed in the franchise contract.