



Franchising in Germany

February 2019, Dr. Dagmar Waldzus and Jasper Hagenberg

Facts and Figures

Franchising in Germany represents a dynamic business sector with consistent growth rates, totaling sales of close to 104 EUR billion in 2016. 950 franchise systems with 119.302 franchisees employ almost 700,000 employees in the sectors services (39%), retail (30%), food service industry, tourism, leisure (22%), and craft, construction, restructuring (9%).

(Source: Franchise-Monitor, Institut für Markenfranchise 2017 in co-operation with Deutscher Franchise-Verband e.V.)

And there is potential for more:

Germany is the largest European country in terms of population, the strongest economy in Europe and the fourth-largest by nominal GDP in the world. Demographic change (more than 40% of the German population are 50 years or older) results in an increasing demand for services and products in the health, senior care, wellness, leisure industries and others.

Legal Environment

There is no statutory franchise law in Germany. Legal standards are primarily based on a mosaic of court decisions supplemented by fragmented statutory provisions pertaining to civil law, competition and antitrust law (including EU-regulations), commercial law, company law, license and intellectual property law, and others. Key aspects of relevant case law relate to

- pre-contractual disclosure obligations
- proper instruction on the right of revocation

- scope of territorial protection
- proper incorporation of the franchise manual
- compliance with statutory provisions related to standard terms
- price recommendations vs. binding sales prices
- non-compete provisions (including post-contractual obligations)
- exclusive purchase requirements
- obligation to pay statutory pension contributions
- compensation claims in analogy to commercial agency law
- obligation on franchisors to pass on rebates and discounts to franchisees
- prerequisites for termination for cause.

Your Focus is Our Focus

Expanding internationally means adapting to the local markets while safeguarding the core elements which make your system unique and successful in your home market. We assist international franchisors in managing

- the adaptation of existing legal documentation to the requirements of German franchise standards (or, if preferred, we draft the relevant documentation in accordance with German law)
- the application for protection of trademarks and know-how
- compliance with statutory provisions (e.g. with respect to labor law, consumer protection laws, food regulations, import restrictions, and many others)
- marketing and advertising campaigns in order to be in line with regulatory restrictions
- implementation of amendments to franchise agreements
- disputes with competitors and/or franchisees (in and out of court).

Our Commitment

Our approach is simple and straightforward: we provide comprehensive, professional and practical advice to franchisors. We are familiar with the legal aspects specific to franchise operations and their application in practice. Well-established distribution organizations and franchisors from Europe, the US and other regions of the world rely on our legal expertise. Start-up enterprises with innovative projects and an eye for upcoming trends benefit from our in-depth industry insights. Our clients appreciate our comprehensive understanding of their industry sector, as we practice in core industries such as food & beverages, services, retail, internet platforms, fashion, wellness/health. And more importantly: we know that our clients want to do business without having to become lawyers. So we use our expertise to help you concentrate on what you want to do in the first place: successfully expand your business in Germany.

Your Value

Providing legal advice and services to franchisors is a people business. Your franchise team at Buse Heberer Fromm has the in-depth industry experience and the commitment to ensure that you get the service you need, and that you will get it from our best.

The Client Service Partner identifies the scope of legal support required by you and will involve the respective subject matter experts of our firm. Throughout the entire project, your Client Service Partner will remain your primary contact, ensuring smooth interdisciplinary and cross-border networking while efficiently managing your overall project cost. With more than 100 specialized attorneys in 7 offices in Germany we advise you on all aspects of commercial and tax law. Through our international offices and our extended network of international experts we efficiently steer your project should you wish to franchise your system Europe-wide.



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