

# Franchising contract – a modern juridical and economic instrument for business expansion

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## **Abstract**

*Development of trade, as well as its dynamics in the context of globalization, have created the premises of acceleration in the commercial distribution networks expansion, with immediate effects in the sphere of law. Transgression, moreover, was predictable and any legal implication in economics, as well that of the judiciary system in the economy can't be ruled out. Among the commercial agreements, franchising has experienced one of the most spectacular developments of all kinds of business, due to the favorable context in which it developed. In this paper we aim to analyze the essential elements of franchising, based on the legal phenomenon rather than on the economic one. This article also examines the behavior of existing and future entrepreneurs regarding the possibility of implementing this legal instrument. These results are consistent with the hypothesis that, even if, according to the statistics, the franchise contract has successfully imposed itself in the business world, there is enough reticence in adopting it as a development measure.*

**Keywords:** contract, franchising, development, business, juridical instrument.

**JEL Classification:** K12

## **Introduction**

Franchising is an important and frequently studied form of organization. It has been subject of various analysis articles in specialized periodicals, as well as of synthesis papers. Nevertheless, we are far from the moment when we could say that enough has been written in this regard.

Being thought as a system where independent entrepreneurs work together inside a contractual network, franchising was born and has evolved in order to become one of the main ways of having and running business nowadays.

The emergence of franchising was determined by the needs of distributing the blockbuster released after the 50s of Twentieth Century by covering a wider market without prejudicing the quality of the commercial offer. Even if the franchise system met its peak in the realm of services, it is also applied in the production field. Currently, development, diversification and specialization of this economic phenomenon are in process, its usage spectrum being extended to increasingly diversified areas.

Franchising is the most adapted kind of investment for the emerging market nowadays, having the ability to introduce techniques, services and products, while immobilizing the local capitals.

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Prestigious international companies owe their rapid development and the overall size of business premises to this distribution system, which they have also developed and improved, making it more viable and compatible with the needs and requirements of a modern and civilized commerce. Among the well known examples we mention Coca-Cola, Pepsi-Cola, REXXAL, Howard Johnson și Hilton, Mc'Donalds, Pizza Hut, Interflora and others.

Franchising best answers to the trend of globalization and centralization of the global economy, while having the advantage of risk spreading, which leads to the danger of general economic crisis, with devastating effects.

This article aims at providing a specific understanding of the franchising contract as a profitable business device, despite the inherent existing gaps between legal and economic issues. In the first part, we will present the role, benefits, specific regulation of the franchising contract as they are found in the specific literature, emphasizing the Romanian case, while in the second part, we will expose the research methodology that was used, while discussing the results obtained.

### **1. Theoretical foundations. Introducing the franchise contract**

Franchising, an original method of distribution of goods and services which has successfully established itself in business, as the statistics show, managed to take a well deserved place in the area of legal and economic concerns. Therefore the attempts of defining it are quite numerous.

The first attempts to define the franchise in Europe were made in France, in a decision of the Paris Court of Appeal issued in 1973, where franchising is defined as a contract by which a company concedes to independent enterprises, in exchange for a fee, the right to use its social name and its emblems to sell products or services. Generally, this contract is accompanied by technical assistance.

As described by Brickley and al (2003), the franchise contract grants the rights to use the parent's brand name and business format at a specific location to an independent businessperson for some specific term (e.g., 10 years). In return the investor/manager (franchisee) pays an up-front fee and an ongoing sales royalty (e.g., 5 percent of sales) to the parent (franchisor). The franchisor agrees to provide training to the franchisee as well as ongoing services to maintain and enhance the brand name. The franchisee agrees to follow the company procedures that are detailed in the operating manuals and franchise contract<sup>3</sup>.

Two codes of conduct were developed in the international law as a regulators' support for traders. The first one was the European Code of Ethics for Franchising<sup>4</sup>, which defines franchising as a system of marketing goods and/or

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<sup>3</sup> Brickley James A., Misra Sanjog, Van Horn R. L., *Contract Duration: Evidence From Franchise Contracts*, available at <http://ssrn.com/abstract=383700>, Accessed: 23 September 2012

<sup>4</sup> The European Code of Ethics for Franchising is elaborated by the European Franchise Federation, an international non-profit Association, constituted in 1972. Its members are national Franchise Associations or Federations established in Europe.

services and/or technology, which is based upon a close and ongoing collaboration between legally and financially separate and independent undertakings, the franchisor and its individual franchisees, whereby the Franchisor grants its individual franchisee the right, and imposes the obligation, to conduct a business in accordance with the franchisor's concept.

The granted right entitles and compels the individual franchisee, in exchange for a direct or indirect financial consideration, to use the franchisor's trade name, and/or trade mark and /or service mark, know-how, business and technical methods, procedural system, and other industrial and /or intellectual property rights<sup>5</sup>, supported by continuing provision of commercial and technical assistance, within the framework and for the term of a written franchise agreement, concluded between parties for this purpose.

The second document is the French Franchise Federation the Code of Ethics which defined franchising as a method of collaboration between a company, the franchisor, on the one hand and one or more companies, the franchisees, on the other hand. Lately, the French Franchise Federation (FFF)<sup>6</sup> conforms to the European Code of Ethics for Franchising. In addition, it has adopted its own supplementary ethical provisions which apply to its members.

Mainly, franchising, seen as an economic phenomenon, is an extremely effective way to distribute a brand, product or service from a market to another in the current context of international changes.

Its importance derives from the simplicity and speed of the network, the conduct of the activities and from the facilities that they create for both sides of the franchise, especially for consumers. The last ones, the final recipients of franchise object, are favoured the most because they will get a wide range of products and/or services bearing different brands, international or local ones, all in the most advantageous terms. Price is reasonable, the commercial margins, taxes and others required in case of import or of an international expansion in the classical sense of the term being unjustified.

Continuing the above mentioned idea, the importance of independence between the franchisor and the franchisee underlies perhaps the most important benefit of franchising, namely that the risks are evenly divided, thus contributing to

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<sup>5</sup> Kinsella Stephen in *Against intellectual property*, published in Journal of Libertarian Studies, Volume 15, no. 2 (Spring 2001): 1–53, considers the intellectual property as being a broad concept that covers several types of legally recognized rights arising from some type of intellectual creativity, or that are otherwise related to ideas. Intellectual property rights are rights to intangible things - to ideas, as expressed (copyrights), or as embodied in a practical implementation (patents). Palmer Tom (1990) quoted by Kinsella S. (2001) defines the intellectual property rights as being rights in ideal objects, which are distinguished from the material substrata in which they are instantiated. In today's legal systems, intellectual property typically includes at least copyrights, trademarks, patents and trade secrets.

<sup>6</sup> The French Franchise Federation (FFF) is the body that represents franchising from its beginnings, in 1971, bringing together the expertise and the professionalism in creating an appropriate environment for the development strategy of the enterprise.

their dissipation and, therefore, to economy development by encouraging capital investment in this much safer area.

Inside a large network, internationally developed in several markets, but also within a single country, these benefits get an even greater extent, since, even if any crisis, imbalance or harmful effect could affect one or more of these franchisees, the network remains intact and propagation is almost impossible between franchisors, as well as between sub-franchisees. It is this very small risk which led to the success of the franchise worldwide and also to its importance.

When shaping this legal form of franchising, a range of contracts were operating on the market of products and services, in order to ensure a proper distribution and delivery of finished products and quality services to the market.

The franchising contract is not a single will agreement. It encompasses many other contracts, each of them with specific characteristics, containing a series of rights and obligations, which are united though by a single cause - their will. Between the contracting parties comprehensive obligational relations are establish, based on the aim of contractors. There is possibility of decomposing franchising the in a series of separate contracts, some named, others unnamed. Sale - purchase, lease, trade name licenses, trademark, logo, designs, patents, know-how, management assistance, consulting/engineering, distribution, exclusivity are contracts currently found in the wording of a franchising.

In the absence of legal, special regulations, or of some express contractual clauses, obligations shall be construed in accordance with basic rules applicable to the basic contracts to which they belong by nature.

## **2. The Romanian case**

Franchising is a relatively new reality in the Romanian economic landscape. Until 1989 it was completely non-existent domestically and, from a theoretical point of view, it was approached mostly by authors of economic information and only in terms of commercial franchise concept and exclusively with reference to the realities of other countries. One can speak about an early form of franchise in Romania represented by the Hertz commercial contract signed with the Romanian Automobile Club in 1975, which contained specific elements of the franchise system.

After 1980, once Law no. 31/1990 on commercial companies was adopted, development of entrepreneurship has become an important component of economic restructuring policy. Romania scored a quick and major burst of this economic phenomenon that is franchising. In a few years, through this mechanism big companies of the Western world came into the country, acting in the most varied fields of activity, from food until computer technology, from clothing until automotive market and services. The first forms of contracts similar to the franchise agreement appeared after 1990 were those of distribution or affiliation. The first classical franchising business entered in Romania was McDonald's.

Romanian law reacted relatively late and incompletely to signals coming from practical economic life of franchising, this being an example about how the legal phenomenon was pushed from behind by the economic one.

The legal status of franchising is regulated in the Romanian law by Governmental Ordinance no. 52/1997 on the legal status of the franchise<sup>7</sup>. Franchising is a marketing system based on continuous collaboration between individuals or legal persons, financially independent, through which a person called Franchisor, grants to another person named Beneficiary, the right to exploit or to develop a business, a product or a service technology<sup>8</sup>. Government Ordinance no. 52/1997 managed a concise regulation of the franchise and not without omissions, but still worthwhile because it responded to the need to cover a large legal loophole.

### 3. Applicable law and jurisdiction of the franchise

Generally, franchising is the best way a professional trader is able to penetrate a new foreign market. In this case the contract shall be perfected between the partners often belonging to some varied legal systems that are sometimes significantly different, such as the Romanist legal system and the common-law.

In this case, in the absence of international regulations, the parties, or in case of dispute, the judge or the arbitrator are bound to apply the conflictual regime governed by law. Usually, conflictual rules belong to the court hearing law system.

In specific conditions to Romanian law, the provisions of Law no. 105/1992 on the regulation of private international law become applicable<sup>9</sup>. This law contains no special regulation for franchise contract, but the conflicting rules for international contracts of technology transfer are applied to it. These rules are "genius-proximus" for the franchise contract<sup>10</sup>.

According to this law, the parties are free to designate the contract law ("lex voluntatis"). They can apply the law of one of them or that of a third country. Furthermore, they may consider as applicable a set of international practices, such as the UNIDROIT Principles of International Commercial Contracts<sup>11</sup> of 1994, as amended in 2004 and 2010<sup>12</sup>, general conditions or standard contracts developed

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<sup>7</sup> On the 9th of April 1998 Romanian Parliament adopts Law no. 79 for approval of Government Ordinance no. 52/1997 on the legal regime of franchising.

<sup>8</sup> Definition according to art. 1 lit. a) from Government Ordinance no. 52/1997 on the legal regime of franchising.

<sup>9</sup> Law no. 105/1992 from 22<sup>nd</sup> September 1992 on the regulation of private international law.

<sup>10</sup> The rules referred to are those mentioned in articles no.73-87 from Law no. 105/1992 on the regulation of private international law.

<sup>11</sup> The International Institute for the Unification of Private Law is an independent intergovernmental Organization with its seat in Rome. Its purpose is to study needs and methods for modernizing, harmonizing and coordinating private and in particular commercial law as between States and groups of States and to formulate uniform law instruments, principles and rules to achieve those objectives, <http://www.unidroit.org/>

<sup>12</sup> At its 90<sup>th</sup> session the Governing Council of UNIDROIT adopted the third edition of the UNIDROIT Principles of International Commercial Contracts ("UNIDROIT Principles 2010").

by the specialized party, or by neutral or international bodies, such as ICC Paris etc.<sup>13</sup>.

Failing to establish a *lex voluntatis*, the court or arbitration, shall make an objective localization of the franchise, according to objective criteria. The particular performance of the Franchisor, as a technology provider, is the objective criteria envisaged by law. The Franchisor has obligations considered essential in terms of the contract, and it is normal that the whole contract to be placed within his right. Thus, in the complete absence of a voluntary designation, the law applicable to the contract, the franchisor will be the residence, office, home or goodwill.

The intellectual property rights that arise or are transmitted under the franchise contract will be subject to a special regime governed the Law no 105/1992<sup>14</sup>. The form of the contract will be governed by the law that governs its substance.

Fragmentation of the contract content and the choice of several legal systems governing various contractual obligations made by involved parties are also possible.

The result of this operation is that different laws from different legal systems have more favorable regulations and then, a selection is done and those provisions most agreed by the parties are chosen.

The operation is risky though, and it is not recommended because it can lead to conflicting legal solutions which could block the execution of the contract and hinder a dispute about it.

In international contracts the choice of a court or an arbitral tribunal, which could rule in case of dispute between the parties, is closely related to the choice of law.

It is common practice for the parties to insert clauses referring to the dispute prevention in the franchise contracts. Through such clauses they may stipulate the necessity of meeting in order to determine the stage of the mutual obligations, to analyze any encountered difficulties and to take steps to the exact execution of the contract.

In case the dispute arises, the parties frequently stipulate their obligation to try to resolve their differences amicably through direct meetings.

If the dispute can not be settled amicably, the parties may agree that its settlement to be done by non-judicial means, other than the jurisdictional ones that are mainly known in jurisprudence and doctrine by the Anglo-Saxon formula of "Alternative Dispute Resolution".

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The UNIDROIT Principles 2010 contain new provisions on restitution in case of failed contracts, illegality, conditions, and plurality of obligors and obliges, while with respect to the text of the 2004 edition the only significant changes made relate to the Comments to Article 1.4.

<sup>13</sup> Sitaru Dan Alexandru, *Drept internațional privat*, Lumina Lex Printing House, Bucharest, 2001, p. 407.

<sup>14</sup> Articles no. 61-63 from Law 105/1992 from 22<sup>nd</sup> September 1992 on the regulation of private international law

In this category of dispute resolution methods, of non-mandatory type, conciliation and mediation are mainly included. Such a method of dispute resolution should be stipulated in the contract by explicit terms, which most commonly refer to rules of conciliation of some specialized institutions or to uniform specific regulations. Such specialized institution is The Commercial Dispute Mediation Centre which is attached to the Chamber of Commerce and Industry of Romania and has an existing regulation since 1<sup>st</sup> of February 2002.

The rules of conciliation of UNCITRAL (United Nations Commission on International Trade Law) are the most famous and applicable from the current uniform regulations. These rules were adopted by the UNO General Meeting in 1980. Besides those we must mention UNCITRAL Model Law on International Conciliation, since 2002 and ADR Rules and Guide to ICC ADR of the International Chamber of Commerce (ICC) in Paris.

The arbitration clause is the one by which the parties materialize in the contract their willingness consent to submit the dispute to an arbitral tribunal. The difference between the arbitration clause and the compromise, which is another form of the arbitration agreement, is that the first clause ends on a future dispute, possible to arise between the parties. On the other hand, compromise is that form of the arbitration agreement ended in a contract form itself on an existing dispute.

Such a clause has a negative effect consisting in removing the power to resolve that dispute by the ordinary courts, but also a positive effect because it conferees jurisdiction to the arbitral tribunal.

#### **4. Research method**

##### **4.1 Research design**

The study focuses on emphasizing the place of franchise in the current business environment. The research hypothesis is based on the assumption that there is a lack of trust among Romanian entrepreneurs with small businesses in a franchise system. We tried to find answers to several research questions from entrepreneurs from various fields of activity such as: fast-food, coffee shops, shops, beauty, education and furniture, clients of some accounting services companies. The number of questions was reduced to six, in an attempt to make them “attractive” to the respondents, who were asked to share their opinion regarding several problems. The closed questions were used because of their advantages of facilitating the recruitment and concentration of subjects in the questionnaire, the quick classification of the answers on established analysis types and others.

The opened questions were used because they are not limited to the respondent choice between an alternative or another, but they leave the liberty of formulating the answer in his own way.

##### **4.2 Study results**

Our research results, obtained by centralizing and interpreting the responses obtained through the questionnaires distributed to 52 entrepreneurs, with a response rate of 55,77%, are disclosed bellow.

**1<sup>st</sup> Question:** To what extent you are familiar with the concept of franchising?

- a. fully, I have already bought one
- b. in a great extent
- c. in a no grater or lesser extent
- d. in a small extent
- e. none

This question emphasis the awareness of the questioned entrepreneurs regarding the franchising system. The following results were obtained:

- 6,9% (2) from the interviewed persons are involved in a franchising business;
- 27,59% (8) from the respondents know a great deal about the concept of franchising;
- 55,17% (16) from the respondents are familiar with the concept of franchising;
- 10,34% (3) of the answerers appreciate they know few things about franchising.

We can draw a conclusion from these results that there is a good deal of information and awareness about franchising between the interviewed entrepreneurs.

**2<sup>nd</sup> Question:** On a scale of 1 to 5 how important choice given to the following potential advantages of a franchise system (1 – unimportant; 5 – most important):

- a. Security of the business formula (brand, training, advertising, advice)
- b. Efficiency of the franchise formula as compared to other forms of business
- c. Independence coupled with risk reduction
- d. Business development and growth
- e. Limited initial investment

The following situation is obtained by adding together the points received:

Advantage	Total score
Security of the business formula	118
Efficiency of the franchise formula as compared to other forms of business	94
Independence coupled with risk reduction	63
Business development and growth	78
Limited initial investment	82

We can notice that the highest score was obtained by the advantage of the security of the business formula (118), followed by the one of the efficiency of the franchise formula as compared to other forms of business (94). We consider here, among others, the advantages of the known name and the quick start of the business due to already proven the efficiency of the system. The list of reasons

included in this question, are widely used in franchise research (Hunt 1997, Knight 1986, Peterson & Dant 1990, Withane 1991)<sup>15</sup>.

**3<sup>rd</sup> Question:** Can you identify other advantages of applying a franchise system? Mention them.

The respondents mentioned additional advantages like:

- the opportunity, especially in case of reconversion of activity, unemployment;
- the support received when starting the business , as well as when running the business;
- more money obtained than those from a salaried work or from running independent business;
- unconditional professional promotion;
- the possibility to be geographically settled.

**4<sup>th</sup> Question:** On a scale of 1 to 5 how important choice given to the following potential disadvantages of a franchise system (1 – unimportant; 5 – most important):

- a. limited independence
- b. conditioned financial access to technology, to R & D results
- c. unfavorable contract terms, given the economic dependence of the Franchisee
- d. risk of total or partial loss of customers after the contract expires
- e. high prices of products / services to cover costs

The following situation is obtained by adding together the points received:

Advantage	Total score
Limited independence	108
Conditioned financial access to technology, to R & D results	93
Unfavorable contract terms, given the the economic dependence of the Franchisee	94
Risk of total or partial loss of customera after the contract expires	61
Prețuri ridicat ale produselor/serviciilor sale pentru acoperirea costurilor	79

**5<sup>th</sup> Question:** Can you identify other disadvantages of applying a franchise system? Mention them.

The respondents mentioned additional disadvantages like:

- lack of entrepreneurial experience;
- the fear for entering into a legal relation;
- the possibility specific unknown regulations;
- higher costs than expected;

<sup>15</sup> Quoted by Gauzente C. (2002), *Using Qualitative Methods in Franchise Research - An Application in Understanding the Franchised Entrepreneurs' Motivations*, *Forum: Qualitative Social Research*, Volume 3, No. 1, Art. 20 – January 2002, available at: <http://www.qualitative-research.net/index.php/fqs/article/view/884/1928#g1>, Accessed: 24 September 2012

- the franchisor may go out of business;
- bad reputation given by other franchisees;
- difficulty of selling the franchise;
- profit sharing.

**6<sup>th</sup> Question:** If you had to choose a franchise contract, which is the type that suits you best?

- a. Product and trademark franchising
- b. Business franchising

Justify the answer if possible

Most of the respondents 62,07% (18) chose the business franchising, while only 31,03% (9) considered product and trademark franchising as being suited to their needs. Two respondents didn't give an answer to this question. Among the possible reasons for the preference towards business franchising we can mention the psychological factor which refers to an increased reticence towards activities involving distribution or manufacturing.

These results disclosed above are consistent with the hypothesis that there is a lack of trust among Romanian entrepreneurs with small businesses in a franchising system, even if there is enough knowledge about this economical and juridical instrument.

## 5. Discussions, implications and conclusion

Franchising best meets the trend of globalization and centralization of the global economy, while having the advantage of risk spreading, which leads to eliminating the danger of general economic crisis, with devastating effects.

Franchising is, par excellence, the most developed and used system by international economic unification. Franchising is an ideal companion for the international transfer of managerial concepts, technology and know-how.

One of the reasons for this is that the entrepreneurs realize that their entrepreneurial project faces many risks if they try to develop their business on their own. Franchise represents the opportunity to set up a business while benefiting from the "security" of an organized system: the franchise network. Among its macro economic advantages, we can mention<sup>16</sup>:

- **job creation**, crucial to stimulating spending and overall economic growth;
- **economic output**, that is the gross value of goods and services a business produces;
- **increased number of franchise establishment.**

The contract provides many advantages to both parties. The franchisee is interested in entering international markets and the franchisor shows interest in benefiting from the franchisee's business development resources. Therefore it was

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<sup>16</sup> <http://www.franchise.com/franchise-news/Why-now-is-an-ideal-time-to-become-a-franchise-owner.cfm>, Accessed: 25 September 2012

concluded that such a kind of cooperation between the parties is not only possible but necessary<sup>17</sup>.

Thus, in what concerns the franchisor, its advantages are:

- attracting the capitals of its franchisees, investments growth and profits in its sphere of influence;
- expansion of products and/or services, their penetration into new markets with low investment efforts;
- savings for advertising and publicity that either are partly supported by the franchisees, or is made with lower expenditure at the birthplace of franchisees;
- increasing reputation, brand, company, products and/or services provided in the consumers network;
- obtain information on local markets through franchisees;
- high motivation of the franchisee manager interested in the business success, which brings a profit proportional to the results;
- the possibility of maintaining control of distribution, valuing the goods, winning and keeping customers;
- the possibility to devote to other activities.

Among the franchisor's disadvantages the following can mention:

- although he controls production and distribution, he remains tributary to the franchisee in the eyes of the customer, the franchisee being the one that symbolizes the brand, product or company;
- the accidents in a franchised business have effects throughout the entire franchise network;
- the services provided imply considerable human and financial efforts;
- even if, when the contract expires, the franchisee loses its right of using the franchisor's signs (brand, company, invention, know-how), it will not easily forget the know-how acquired from the franchisor, in spite of the prohibitions and sanctions under the contract and whose compliance is difficult to provide in practice;
- unpredictable risk taking, such as lack of experience or managerial failure of the franchisee, acts and deeds committed by the franchisee which can compromise the business, limited control over franchisees;
- the dependence on the profits made by franchisees<sup>18</sup>.

In what concerns the franchisee, some of its advantages are:

- the franchisee keeps its independence and leadership of the business; he remains the business owner still inside the network;
- it benefits from the power of attraction exerted by a brand or a known company;
- reducing risks of failure;
- training, management and technical assistance from the franchisor;

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<sup>17</sup> Mazilu Dumitru, *Drept comercial internațional - partea specială*, Lumina Lex Publishing House. Bucharest, 2006, p. 275, footnote no. 30

<sup>18</sup> Macovei Ioan, *Contractul de franciză*, Candy Publishing House, Iași, 2000, p. 31.

- execution of advertising campaigns with lower costs and greater impact;
- access to technology, know-how, and research and development programs provided by the franchisor.

Some disadvantages of the franchisee include:

- limitation of the franchisee's independence - even though he remains the owner of his business, he must apply the franchisor's strategy, follow the imposed rules of distribution, production and services rendering, to follow the trademark defense policy et.
- the franchisee access to technology, to results of research and development is financially conditioned by the network entrance fee, the royalty calculated on budgeted or actual turnover and which can govern the budget of a company with a modest financial situation;
- the economic dependence can complete the franchisee to accept contract terms which are not in its favour, while the termination clauses from the contract can put it in extremely difficult situations;
- when the contract expires, the franchisee typically is at risk of losing, if not entirely, however a significant part of its customers;
- the royalties to be paid by the franchisor will be reflected in the prices of products / services.

As for the franchising disadvantages, only few things were written in the literature. However, regarding the independence of the franchisee to the franchisor we can say that the benefit applies only to those who do not have the necessary means to initiate a business. Being a franchisee, however, implies a degree of dependence deriving from the franchising contract with the franchisor. This happened due to the fact that at the completion of the contract the franchisee may be excluded from the network.

In conclusion we can see that this economic phenomenon has developed very recently, the advantages being superior to any disadvantages.

Even so, our study results show reticence from the entrepreneurs with small businesses in adopting this system. There are various motivations, among which some related to the juridical effects and the loss of independence. Nevertheless, a distinction should be made between the choice of franchise and the choice of franchiser<sup>19</sup>. Neglecting this aspect could be misleading when analyzing franchisees' motivations. This is particularly important from a managerial point of view. Indeed, certain franchisors might appear very attractive for potential franchisees because of their intrinsic characteristics. And this is important to understand and to know as a franchiser, as it is a key element for franchisees' recruitment.

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<sup>19</sup> Gauzente C., 2002, *Using Qualitative Methods in Franchise Research - An Application in Understanding the Franchised Entrepreneurs' Motivations*, *Forum: Qualitative Social Research*, Volume 3, No. 1, Art. 20 - January 2002, available at: <http://www.qualitative-research.net/index.php/fqs/article/view/884/1928#g1>, accessed: 24 September 2012

It is hoped that the commentary will provide some guiding points for future research seeking to develop a better understanding of the juridical and economic implications of franchising.

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