



## **FRANCHISING IN SPAIN:** ***THE WHYS AND HOWS***

Why franchise? The answers are well known: low investment, good return and internationalization made easy. Why franchise in Spain? This might not seem so straightforward in the current economic downturn but there's no real reason to pass on a market that has embraced the franchising concept, knows it well and has been successful in exporting its own franchises.

In this edition of AVCO News we'll take a closer look on Spanish franchising and give some tips on legal issues that have to be addressed.

### ***Why get in?***

It would seem that the present ominous forebodings on the Spanish economy coupled with a mature franchise market, would have a deep impact on the franchising sector. However, the numbers tell a different story. The total number of franchises, already one

of the highest in Europe, rose from 934 in 2010 to 947 in 2011; turnover increased as well from € 24,651,486 million to € 26,351,838 million<sup>1</sup>.

The number of foreign franchises also showed a slight upturn adding three more brands in 2011 for a total of 180. France still commands the top spot with 44 brands, with the United States trailing close by with 39, then Italy (29), Portugal (11), UK (8), Germany, Belgium, the Netherlands and Switzerland (5) and Denmark (4).

Interestingly, the number of establishments decreased gently from 58,279 in 2010 to 56,444 in 2011, and the number of employees went down too from 240,713 to 231,603. If we look again at last year's turnover, this seems to suggest that the sector has adopted lighter, more efficient structures.

1. All quoted figures sourced from the Spanish Franchise Association.

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### *How to cope with legal issues*

Not every EU Member state has specific legislation that addresses franchising but Spain does. So, apart from the well know Commission Regulation (EU) 330/2010, of 20 April 2010, attention must be paid to the following laws:

- Law 7/1996, of January 15 1996, on the regulation of retail trade;
- Royal-Decree 210/2010, of February 26 2010, on franchising and the Registry of Franchisors;

Chapter II of the Royal-Decree deals with three important issues: a) it defines what franchising is; b) it establishes which information the franchisor must hand over to any candidate prior to the signing of the agreement; c) it allows the franchisor to impose on the candidate a confidentiality agreement in order to protect any information made available to the latter.

The Registry of Franchisors is introduced in Chapter III, pursuant to which all franchisors must register with either the Central Registry or one of the regional Registries, if they exist in the regions where the franchisor is based in. Nevertheless, foreign franchisors without a permanent establishment in Spain are exempt, their

only obligation being they must communicate the beginning of their franchise activity. Registration must not be taken lightly as failure to do so can result in a fine of up to € 30,000.

Other matters related to the franchising activity must also be considered such as trademark registry, consumer protection, unfair competition or data protection. Plus if the franchise requires a retail lease, or if any construction will be undertaken, the proper licenses and permits must be looked into as well.

All in all, now's a good time as ever to get into the Spanish franchise market. An added benefit is that it's easier to then access other Spanish speaking markets and branch out into Northern Africa or Portugal. Spanish franchisors have heeded the call and there are now 242 brands that have gone international (+ 8 from 2010), while the number of establishments is on the rise: 11,178 in 2011 against 10,186 in 2010.



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