

**DECREE  
MAKING DETAILED PROVISIONS  
FOR IMPLEMENTATION OF THE COMMERCIAL LAW  
WITH RESPECT TO FRANCHISING ACTIVITIES**

**The Government**

Pursuant to the *Law on Organization of the Government* dated 25 December 2001;

Pursuant to the *Commercial Law* dated 14 June 2005;

On the proposal of the Minister of Trade;

**Decrees:**

**CHAPTER I**

**General Provisions**

**Article 1** *Governing scope*

This Decree makes detailed provisions for implementation of the *Commercial Law* with respect to franchising activities in the territory of the Socialist Republic of Vietnam.

**Article 2** *Applicable entities*

1. This Decree applies to Vietnamese business entities and foreign business entities participating in franchising activities.
2. An enterprise with foreign owned capital specializing in the purchase and sale of goods and activities directly related to the purchase and sale of goods, in addition to complying with the provisions in article 7 of this Decree, may only conduct franchising in lines of goods in which such enterprise is permitted to provide distribution services pursuant to international undertakings of Vietnam.

**Article 3** *Interpretation of terms*

In this Decree, the following terms shall be construed as follows:

1. *Franchisor*

8. *Franchise development contract* means a franchise contract under which the franchisor grants the franchisee the right to set up more than one establishment to conduct the franchise business within a specific geographical area.
9. *Master franchise* means the right that is granted by a franchisor to a secondary franchisor to sub-franchise to secondary franchisees. Secondary franchisees shall not be permitted to further sub-franchise such master franchise.
10. *Secondary franchising contract* means a franchising contract entered into between a secondary franchisor and a secondary franchisee pursuant to a master franchise.

**Article 4** *Authorities responsible for State administration of franchising activities*

1. The Ministry of Trade shall be responsible to the Government for the exercise of State administration of franchising activities nationwide, and shall have the following powers and duties:
  - (a) To exercise uniform administration of professional activities, to provide guidelines for the implementation of polices and regulations on franchising activities, and to organize the registration of franchising activities;
  - (b) To co-ordinate with ministries, ministerial equivalent bodies, Government bodies and people's committees of provinces and cities under central authority to inspect, control, assess and report on franchising activities to superior competent bodies;

- (a) Undertake State administration of franchising activities within their localities;
- (b) Direct Departments of Trade or Departments of Trade and Tourism, within the scope of their authority, to organize registration, inspections and control of franchising activities within their localities and to forward periodical reports on such franchising activities to the Ministry of Trade.

## CHAPTER II

### **Franchising Activities**

#### Section 1

#### **Conditions for Franchising Operations**

##### **Article 5** *Conditions applicable to franchisors*

A business entity may grant a franchise when the business entity satisfies all of

2. An enterprise may only conduct business in goods and services on the list of goods and services in which business is restricted or on the list of goods and services subject to conditions after such business entity has been issued with a business licence or equivalent document by the body administering the branch or after the enterprise satisfies the conditions for such business.

## Section 2

### **Information Disclosure and Franchise Contracts**

#### **Article 8** *Responsibility of franchisors to disclose information*

1. A franchisor shall be responsible to provide a copy of the franchise contract form and the franchise description document to the proposed franchisee at least fifteen (15) business days prior to the date of entry into the franchise contract if the parties do not have some other agreement. The Ministry of Trade shall provide regulations on and announce the compulsory items which must be included in the franchise description document.
2. A franchisor shall be responsible to immediately notify all franchisees of any important change to the franchise system which affects the franchise business of a franchisee.
3. If the franchise is a master franchise, in addition to providing the information stipulated in clause 1 of this article, the secondary franchisor must also provide a proposed franchisee with the following information in writing:
  - (a) Information about the franchisor which has granted the franchise;
  - (b) Contents of the master franchise contract;
  - (c) The manner in which secondary franchise contracts will be dealt with in the event of termination of the master franchise contract.

#### **Article 9** *Responsibility of proposed franchisees to disclose information*

A proposed franchisee must provide the franchisor with all information reasonably requested by the franchisor in order to make a decision on grant of the franchise to such proposed franchisee.

#### **Article 10** *Objects of industrial property in franchising*

1. If the franchisor grants the franchisee the right to use objects of industrial property and contents of franchising, then the transfer of the right to use such objects of industrial property may be provided for in a separate section of the franchise contract.
2. The transfer of the right to use objects of industrial property in a franchise contract shall be governed by the law on industrial property.

**Article 11** *Contents of franchise contracts*

If the parties select application of the law of Vietnam, the franchise contract may contain the following main items:

1. Contents of franchising.
2. Rights and obligations of the franchisor.
3. Rights and obligations of the franchisee.
4. Price and periodic franchising fee, and payment method.
5. Term of the contract.
6. Extension and termination of the contract, and dispute resolution.

**Article 12** *Language of franchise contracts*

A franchise contract must be made in Vietnamese. In the case of a franchise from Vietnam to overseas, the parties shall agree on the language of the franchise contract.

**Article 13** *Term of franchise contracts*

1. The term of a franchise contract shall be as agreed by the parties.
2. A franchise contract may be terminated prior to the expiry of the agreed term pursuant to article 16 of this Decree.

**Article 14** *Time when franchise contracts takes effect*

1. A franchise contract shall take effect as from the date of its signing except where the parties agree otherwise.

2. If a franchise contract contains a section on transfer of the right to use objects of intellectual property, such section shall take effect in accordance with the law on intellectual property.

**Article 15** *Assignment of franchises*

1. A franchisee may assign the franchise to another proposed franchisee when the following conditions are satisfied:
  - (a) The proposed assignee satisfies the condition stipulated in article 6 of this Decree;
  - (b) The original franchisor (hereinafter referred to as the *direct franchisor*) provides approval.
2. The franchisee must provide the direct franchisor with a written request to assign the franchise. Within fifteen (15) days from the receipt of such written request, the direct franchisor must provide a written response:
  - (a) Approving assignment of the franchise by the franchisee; or
  - (b) Not approving assignment of the franchise by the franchisee for a reason stipulated in clause 3 of this article.

If the direct franchisor fails to provide a written response within the above fifteen (15) day period, it shall be deemed to have approved assignment of the franchise by the franchisee.

3. The direct franchisor may only refuse to approve assignment of the franchise by the franchisee when one of the following grounds exists:
  - (a) The proposed assignee is unable to satisfy the financial obligations which it would have to discharge under the franchise contract;
  - (b) The proposed assignee has not satisfied the selection criteria of the direct franchisor;
  - (c) The assignment will have a significantly adverse effect on the existing franchise system;
  - (d) The proposed assignee does not agree in writing to comply with the obligations of the franchisee under the franchise contract;

- (dd) The franchisee has not fully discharged obligations to the direct franchisor, except where the proposed assignee provides a written undertaking to discharge such obligations in lieu of the franchisee.
4. The assignor shall lose the franchise once it is assigned. All rights and obligations relating to the franchise of the assignor shall transfer to the assignee, unless there is some other agreement.

**Article 16** *Unilateral termination of franchise contracts*

1. A franchisee shall have the right to unilaterally terminate the franchise



**Article 18** *Delegation of authority to register franchising activities*

1. The Ministry of Trade shall register the following franchising activities:
  - (a) Franchising activities from overseas into Vietnam including those from export processing zones, non-tariff zones and other separate customs areas into Vietnamese territory in accordance with the law of Vietnam;
  - (b) Franchising activities from Vietnam to overseas including those from Vietnamese territory into export processing zones, non-tariff zones or separate customs areas in accordance with the law of Vietnam.
2. The Department of Trade or Department of Trade and Tourism of the province or city under central authority where the proposed franchisor registers its operations shall carry out registration of domestic franchising activities, except those transferred across the borders of export processing



- (b) The business entity has its business registration certificate or investment certificate withdrawn.
- 2. The body which registered franchising activities shall be responsible to provide public notification of any cancellation of such registration.



2. Minister, heads of ministerial equivalent bodies and Government bodies, and chairmen of people's committees of provinces and cities under central authority shall be responsible for providing guidelines and for implementation of this Decree.

For the Government  
The Prime Minister

PHAN VAN KHAI