Myth vs. Reality

Buying a franchise needn't be scary--once you separate fact from fiction.

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Most people who buy a franchise have never before owned a business. Part of the romance of franchising for these people is that it's new and untried. If you've never owned a franchised business, trying to imagine the experience using information from friends and family leaves you vulnerable to myths. To protect yourself, learn to identify the common myths and set yourself straight as you consider buying a franchise.

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Myth #1:

You roll the dice when you buy a franchise. Alternative myth: You can't miss being successful with the right franchise.

The reason most myths become widely accepted in the first place is that there's a kernel of truth in them. Franchising has a reputation that's part shimmering small-business success and part fast-talking huckster. It's earned that dual reputation through 30 years of minting gold-plated McDonald's millionaires and 30 years of franchise failures (accented by the occasional all-American fraud).

The reality lies somewhere in the middle, of course. Any time an investor decides to put money into a new business, there is extraordinary risk. It matters little, despite claims to the contrary by those hyping the growth of the franchising industry, whether the new business is franchised or independent. It's a fact of life that all business endeavors involve risk.

Behind every successful franchise chain is a group of owners working harder than they ever thought they would. Many of them are loving it--and no doubt, some of them are miserable.

Don't buy a franchise expecting your path to be paved with gold. At the same time, don't let a cynical eye steer you away from a terrific investment and development opportunity. The objective is to find a solid franchise program that works well for you, and then use it to build your own success story.

Myth #2:

You have to flip a lot of burgers to make it in franchising.

Becoming a franchisee no longer means you have to ask "Do you want fries with that?" The real growth in franchising in the 1990s has been in specialized service providers--especially business-to-business and homebased--and not in fast-food restaurants. Franchising has spread into other industries and professions. With pet-sitting services, real estate brokerages and funeral homes now being franchised, the burger image is fading fast.

Myth #3:

The UFOC is a government-mandated, worthless boilerplate.

The UFOC, or Uniform Franchise Offering Circular, is a document franchisors are required to deliver to all prospective franchisees at their first serious in-person meeting or at least 10 business days before the deal is sealed. The UFOC's guidelines, which must be followed by franchisors, are government-mandated, listing in detail the questions to be answered and the information and contract forms to be included.

But the UFOC is an essential lifeline for investors. In recent years, the document's format has been changed so that it's now written in plain English. It's shorter than it used to be and provides a lot of key information in chart form. It contains a sample of each contract you'll be asked to sign and up to three years of audited financial statements for the franchisor. It's a treasure trove of investor information.

Failing to review the UFOC carefully is a big mistake. You need to know the franchisor's background, its bankruptcy and litigation history, and the experience of its executives. You need a summary of the fees you'll pay for the right to participate in the program, and you need to know the average total investment required. You need to know what restrictions are placed on your purchase of product supplies and your obligations under the franchise agreement. Is financing provided? On what terms? You need to know the legal status of the company's principal trademark and whether it's registered with the U.S. Patent and Trademark Office. The UFOC will also tell you if the franchisor chooses to deliver earnings or performance information about its system, and it gives a complete list of franchise owners in your area.

In a sense, the government has done some of the thinking for you by providing answers to the basic questions that all investors should ask (but may not think of) in the UFOC. The theory is that by having access to a UFOC, investors will be well-informed and make better investment decisions, and the marketplace will operate more smoothly. If there are risks lurking in a franchise program such as an unregistered trademark, a long bankruptcy history, a thinly capitalized franchisor, a propensity to litigate or a two-year trend of system shrinkage, then investors will be in a position to weigh those risks and act accordingly.

Myth #4:

The UFOC tells you all you need to know about the franchise.

Not so. As useful as the UFOC is, it's only a small portion of the information you need to evaluate before you decide to purchase a particular franchise. You also need practical and professional input.

Call several of the franchise owners listed in Item 20 of the UFOC, and ask them about their experience as franchise owners in the system. What have their greatest challenges and disappointments been? Did they make the amount of money they expected? If they had the investment decision to make again, would they still buy this franchise?

There is no experience as instructive as meeting and observing current franchise owners. Visit the business, and find out if you can follow the owners around for half a day. Ask them questions about what they do and why they like it. You'll get the real story here, not the varnished presentation of a sales representative who earns a commission when you sign on the dotted line.

You should also plan to take your UFOC to both an accountant and an attorney. You'll need a competent accountant to prepare a solid cash-flow analysis of the business. Your accountant can estimate when you'll break even and tell you whether you can afford to invest in the business. Involving an accountant early can help you avoid costly surprises later.

A good business lawyer can explain the legal relationship the proposed franchise agreement will create. Franchise agreements are unusual legal contracts. They can span a generation of time; grant a list of intangible rights, from trademark use to exclusive territory rights; severely limit the decision-making power you would otherwise have as an independent business owner; and have frightening termination language that puts you and your life savings on a trap door with a hair trigger. Talk through the implications of the contract with your attorney. There may well be provisions that you'll be advised not to sign. If so, can you negotiate the terms of the franchise agreement?

Myth #5:

Franchise agreements are offered on a take-it-or-leave-it basis.

In fact, you can and should negotiate the terms of your franchise agreement. Franchise laws in some states, such as California, make it difficult for a franchisor to negotiate any changes in its franchise offering. In that state, a negotiated change must be filed with state officials and displayed in all subsequent UFOCs. In most states, however, changing a franchise agreement is more straightforward. In fact, Virginia *requires* that the terms of a franchise agreement be negotiable, or the contract may be voided by the franchisee within a certain period of time.

If your attorney advises you that a provision should be changed to protect your interests and the franchisor refuses to consider the change, think hard before going ahead with the deal.

Clearing away the myths allows you to make a realistic evaluation of the investment and is an important first step on the road to franchising success.