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1. When the Party's Over: Issues at the End of a Franchising Relationship

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This article considers issues that may arise on a termination or expiry of the franchise relationship. The meanings of the terms “expiry” and “termination” may not be clear from the agreement and may give rise to different consequences. The legal nature of a continuing relationship post expiry before an agreement is renewed, abandoned or otherwise brought to an end may also be an issue. Renewal may be on the terms of the franchisor's then current franchise agreement which may be quite different from the original franchise agreement. Covenants in restraint of trade must protect a legitimate interest of the franchisor and may have to be tested for reasonableness between the parties and in the public interest.

2. A cross-cultural exploration of franchise entrepreneurial orientation

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Research suggests that there are cross-cultural variations in entrepreneurial entry rates (Autio et al., 2013) and it seems that this in part stems from differences in cultural values. Hayton et al (2002) argue that differences in cultural values may mean that the extent to which entrepreneurial behaviours, such as risk taking and independent thinking are considered desirable will differ between cultures. Thus, it is suggested that some cultures will be more closely aligned with an entrepreneurial orientation (EO) than others (Mueller and Thomas, 2000). Studies exploring the impact of culture on entrepreneurship have considered this at a number of levels, from looking at aggregate measures of entrepreneurial activity, such as innovation and rates of new firm formation, individual entrepreneurial personality characteristics, and corporate entrepreneurship. However, as Hayton et al. (2002) highlight there is a paucity of studies which consider this latter level, corporate entrepreneurship. It is, therefore, this last form of entrepreneurship which this paper explores, in examining whether national culture (as measured by Hofstede's dimensions of uncertainty avoidance, individualism-collectivism, power tolerance and masculinity-

femininity) influences the entrepreneurial orientation exhibited by franchise organisations. It does so by exploring the level of entrepreneurial orientation exhibited by 376 franchise organisations in their promotional rhetoric in five different country contexts (Australia, France, India, South Africa and the UK), using the computer assisted content analysis software DICTION. Franchise organisations are an interesting context in which to explore entrepreneurial orientation, given the apparent contradiction between the autonomy which may be granted to franchisees versus the uniformity and standardisation which franchise systems are often seen to represent. The results found that culture has an important influence on entrepreneurial orientation within franchise organisations. Franchise systems operating in high uncertainty avoidance, high power tolerance, and feminine cultures were less entrepreneurially oriented, suggesting that it is important to consider EO within its cultural context in order to better understand the role of EO within franchise organizations, and its performance implications. Although this study has focused on EO, it seems unlikely that the influence of national culture on franchise organisations is limited to this domain, and therefore the paper urges franchise researchers to explore how different cultural contexts may influence other aspects of franchising, for example, franchisor-franchisee relationships, franchisee recruitment and organisational structures, to highlight just some potential avenues for future research.

3. Emergence of Local Retail Food Franchises in the Middle East: The Influence of Foreign Franchise -Focus on Saudi Arabia & United Arab Emirates-

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The purpose of this research is to answer the basic question “How did foreign retail food franchises imported to the Middle East contribute to the creation of local retail food franchises?” Research about franchising in the Middle East is minor, and is mainly concerned with retail franchise developments caused by imported foreign franchises. Emergence of local franchises, food and non-food, and reasons and circumstances which accompanied their emergence, were hardly addressed in literature. This research proposes that foreign franchises contributed to the creation of local ones by being a benchmark for them at various business functions being competition, strategy, marketing and operations, as by effect of founders’ backgrounds characterized by extensive contact with and exposure to foreign franchises. The research deals with the research question by a further proposition that setbacks which faced certain foreign franchises in the region contributed to the establishment of local franchises based on avoiding these setbacks. Qualitative case study methodology was applied and a case of prominent local retail food service franchise has been selected from each of the Kingdom of Saudi Arabia and United Arab Emirates. The research reaches to the conclusion that proposed causes of contribution are in close relevance to the research question. In the cases studied, foreign franchise backgrounds of local entrepreneurs did inspire them to start-up their own local food franchise concepts. Foreign franchises were a benchmarking reference for local entrepreneurs in all four of the above proposed business functions against which they established their local food franchises. Additionally, this research concludes that setbacks and difficulties which faced

foreign franchises, in some cases not successfully overcome, were a significant factor that led to creating local franchise counterparts. Further research findings and implications for theory, practice and future research are brought in the research.

4. The Effect of Service Complexity on Performance of Franchised Outlets

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The overall results of this study suggest that for low service complexity new ventures the incentive structures and contractual arrangements inherent in franchising are well suited. In service ventures with high levels of service complexity, arrangements involving two distinct parties that must work together may be more costly and difficult to manage. We find that franchisee outlets outperform independent entrepreneurs in each of the first three years of operation when the service business was low in complexity. In contrast, independent operators were able to outperform franchisees after the first year in complex service enterprises. Franchisors who operated in complex service settings were only able to outperform independents in the first year of operation, suggesting that both experienced chains who provide reliable and consistent services and independent entrepreneurs who quickly learn to adapt to the broad needs of sophisticated consumers are able to obtain performance success.

5. A Knowledge Based View of Franchise System Success: An Empirical Investigation and Replication

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Rajiv P. Dant, The University of Oklahoma, USA

Brent L. Baker, University of North Dakota, USA

The Knowledge Based View (KBV) states that the knowledge that an organization possesses is its most important strategic resource. Given how important the adequate use of knowledge is to franchise system success, the KBV has yet to guide significant franchising research. The most important principle of KBV is to recognize system wide resources through the eyes of knowledge based resources. Using two separate secondary datasets, we examine the relationships between the knowledgeable employment of system resources and the system performance. Empirical results reveal consistent support for our hypotheses. The ensuing discussion focuses on the implications of our findings.

6. Linkages Between Pricing Practices in Franchise Chains and Franchisor-, Franchisee- and System-Level-Outcomes

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Previous literature highlights the professionalization of resale price management as a major challenge firms face in the quest for achieving competitive advantage and long-term

profitability. However, recent evidence suggests that around two-thirds of companies are frequently unable to set the “right” prices, with severe negative impacts on business outcomes. The challenge inherent in pricing management becomes even more complex in hybrid organizations like franchising, as much of the *raison d’être* of franchising is built upon maintaining chain uniformity. However, franchisees and franchisors may have very different views on what the optimal prices are at a given unit. Therefore, to further our understanding of pricing management in franchise chains, we aim to offer a novel conceptual framework for approaching the question of how pricing decisions are taken and implemented in chains and what business consequences result. By integrating franchisee-, franchisor-, and system-level perspectives, we study linkages between franchisor’s pricing practices, franchisees’ attitudes towards these practices, means of relational governance that help balance both parties’ interests, and franchisor-, franchisee- and system-level outcomes. Based on survey data from 406 franchisees in the largest European franchise market, France, the model provides direction on how to foster, promote, and fine-tune a cooperative climate in the chain in the context of pricing strategies.

7. More or Less Integration? Sector-based differences in French franchising and brand-distribution networks

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Magali CHAUDEY, University of Lyon, FRANCE

Muriel FADAIRO, University of Lyon, FRANCE

This paper deals with the sector-based differences of integration levels in franchising and brand-distribution networks. Using French data, we highlight key differences among sectors regarding the organizational forms. Then, we show that the concepts of business model and organizational isomorphism are useful to understand the sector-based differences. These concepts and the related analytical frameworks are presented. The paper discusses their utility to explain the observed sector-based differences in the French case. This exploratory research is conceived as a first step. It calls for international comparisons and collaborations to go further in the comprehension of sector-based differences, which, for now, constitute an understudied issue in the empirical literature on franchising and brand-distribution networks.

8. Ownership and Control in Franchising Networks

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Muriel Fadairo, Université de Lyon, France

Previous research has not explained the governance structure of the franchise firms as institutional entity consisting of decision and ownership rights. We try to fill this gap by hypothesizing that the allocation of decision and ownership rights between the franchisor and franchisees depends on the distribution of intangible assets (local market and system-specific assets), the level of local market and behavioral uncertainty and franchisor’s trust toward the franchisees. In addition, we investigate the interaction between decision and

ownership rights. We hypothesize that, based on the complementarity view, decision and ownership rights function as complements, and based on the substitutability view, decision and ownership rights function as substitutes. Overall, we present the first study on ownership and control in franchising network by developing an integrative model using property rights theory, transaction cost and agency theory and the relational governance perspective. The hypotheses are tested with data from the German and Swiss franchise sector.

9. Revised Statutory Cooling Off Provisions as a Solution to the Market for Lemons Problem in Business Format Franchising

Courtenay Atwell, UNSW Australia

In this paper I apply George Akerlof's 'market for lemons' hypothesis to the business format franchise model. The insights facilitated through the application of Akerlof's model assist in the identification of expectation disparities that occur in the beginning stages of the relationship between a franchisee and franchisor. Using these insights, the statutory cooling off period is proposed as a potential legislative solution which, following some amendments, could be a remedy for the majority of franchisee initiated complaints in the pre- and early contractual stages. The proposed amendments to the cooling off period to increase its utility include verbal disclosure, the inclusion of reciprocal rights, event-triggered and successive periods and options.

10. Certification: Motivations and Perceptions of Value Within the Franchise Sector

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Gary D. Jones, University of Louisville, USA

Evelien Croonen, University of Groningen, The Netherlands

This study offers a descriptive analysis of a franchise certification program. The franchising sector occupies a unique space in the economy and there exists a common body of knowledge that the International Franchise Association (IFA) has codified. The purpose of the study was to analyze the IFA's certificate program regarding candidates' and graduates' motivations for pursuit of certification, graduates' satisfaction with impact of certification, and graduates' attribution of career mobility and increased compensation from the certification designation. The sample consisted of 510 candidates and 546 graduates of the certification program. The results showed candidates and graduates to be similarly motivated for pursuing certification, though substantial differences in motivation exist between segments (affiliation with industry, tenure, and organizational stature). Findings also showed that graduates were most satisfied with the certification programs help in expanding their knowledge and increasing their networking, with lower satisfaction reported on impact to career mobility and compensation. The majority of graduates, however, would still recommend the certification to others. These results are consistent

with prior studies on certification, which have also found participants are likely to recommend certification programs to others, even if the benefits they receive are nonmonetary in nature.

11. Organizational Capabilities and Multi-unit Franchising. Evidence from Germany and Switzerland

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Josef Windsperger, University of Vienna, Austria

This study investigates the role of exploration and exploitation capabilities for the franchisor's choice of multi-unit franchising. According to the organizational capabilities view, multi-unit franchising increases the franchise firm's organizational capabilities (such as exploitation capabilities, consisting of coordination, control and knowledge transfer capabilities, and exploration or innovation capabilities) and hence its competitive advantage when compared to a single-unit franchising system. We hypothesize that the franchisor's propensity to use multi-unit franchising is positively associated with the franchisor's perception of exploration and exploitation capabilities advantages under multi-unit franchising compared to single-unit franchising. The empirical results support the hypotheses. Overall, our study complements the organizational economics perspectives of multi-unit franchising by developing and testing an organizational capability model to explain the franchisor's choice of multi-unit franchising.

12. Influence of Brand, Up-Front Franchise Fees and Initial Investment on Entrepreneurs' Decisions to Open a Franchise Outlet

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Pilar Huerta-Zavala, University of Burgos, Spain
Jannett Ayup-González, University Autonoma of Tamaulipas, Mexico

This paper focuses on the choice of franchise by a potential franchisee opening an outlet for the first time. The aim is to analyze the relationship between two signals—brand equity and price—sent by the franchisor and the choice of franchise. Signaling theory is employed to analyze this relationship. Using panel data methodology, we conclude that brand equity, up-front franchise fees and initial investment are the signals taken into account by Spanish franchisees when starting up franchise stores between 2002 and 2008.

13. Elvis Has Left the Building: Why Franchisees Leave Their Franchise Systems?

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Dr. Maryse Brand, University of Groningen, The Netherlands

This study provides an understanding of antecedents of franchisees' intent to leave their franchise systems. We combine social exchange theory (SET) with an entrepreneurial motivation perspective to develop hypotheses on the impact of different types of franchisee trust, of economic satisfaction and of franchisee entrepreneurial motivations on

franchisees' intent to leave their franchise systems. We test our hypotheses with survey data collected at franchisees from a Dutch franchise system. The results point at a franchisee's trust in its franchisor, trust in its peers and economic satisfaction as important antecedents of a franchisee's intent to leave. Additionally, franchisees' intrinsic and extrinsic motivations strengthen the relationship between economic satisfaction and intent to leave.

14. The royalty rate and the trade-off between risk and incentives: Determinants and performance outcomes in franchising networks

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This article deals with a main monetary provision in franchise contracts, the royalty rate, which influences the profit sharing between the franchisor and the franchisee. The principal-agent model highlights a trade-off between risk and incentives motivations. Contrary to this view, we show that under low risk aversion of the franchisee, the relationship between risk and incentives is positive which implies that the royalty rate decreases with the risk of business failure. We address empirically this issue and the performance outcomes at the network level. Our unique panel dataset combines French franchising and financial data. Using a random effect model, in addition with the two-stage Murphy and Topel estimator, we provide evidence that when the royalty rate is determined regarding risk and incentives issues, the network financial performance is higher.

15. A Multi-Sector Examination of Antecedents of Voluntary Information Disclosure by Franchisors

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Franchisors, like other entrepreneurs, need financial and managerial resources to develop their business and face the challenge of providing ex ante communication of their quality to (and acquire these resources from) prospective franchisees. This issue is reflective of the classical adverse selection problem in agency theory. An earnings claim is an example of ex ante voluntary information disclosure by franchisors. According to extant theory, all franchisors should provide an earnings claim to prospective franchisees; not doing so will be perceived as a signal of poor quality. However empirical studies show that only a small portion of franchisors provide earnings claims.

In this paper, we first replicate prior research results regarding factors influencing a franchisor's decision to offer an earnings claim by assessing their predictions across multiple industries and by using a relatively larger and newer dataset. Second, we develop and estimate an enhanced model, using additional variables to capture the quality, cost and competition-related factors that have been identified by extant research as predictors of

franchisor use of earnings claims and addressing potential causality issues by using lagged independent variables. Third, we go beyond quality, cost and competition-related factors and also examine the effect of the level of information asymmetry on the use of signaling through earnings claims. Finally, we attempt to reconcile potentially conflicting views on signaling in franchising. Given that a franchisor can use multiple mechanisms (e.g., ownership proportion, royalty rate, earnings claims) to signal to prospective franchisees, are these signals potential substitutes or complements?

We conceptualize a model that uses agency and institutional theories to posit effects of signaling cost, quality, competition, qualification and information asymmetry on voluntary disclosure of financial information by franchisors. We test our model and hypotheses using secondary data. Our results show that less than half of the franchisors make these voluntary financial disclosures. They do so when the cost of gathering information is low and when competitors do so. These results confirm the robustness of prior findings by showing that they hold up for a wider range of industries, with newer data, with alternate operationalizations of key constructs and with lagged independent variables. Finally, we address potentially conflicting views on substitutes or complements signals in franchising when a franchisor can use multiple mechanisms. Our findings support the latter view and are consistent with economic models that entail the use of multiple signals.

16. Entrepreneurial Orientation, Innovation and Performance in Franchise

Networks: A Configurational Approach

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The purpose of this paper is to propose a taxonomy highlighting the various configurations of franchise organizations. To this end, a cluster analysis using hierarchical and non-hierarchical clustering procedures was conducted on the basis of unique primary data gathered from 99 franchisors operating in France. By comparing the franchisors' level of entrepreneurial orientation—which can favor innovation and therefore the global performance of the franchise system—the grounded taxonomy distinguishes four configurations: “inventors”, “protectors”, “optimizers” and “pioneers”. The findings emphasize the need to take into account these multiple configurations when studying the relationship between entrepreneurial orientation, innovation and performance within the franchising context.

17. Unnatural Relationship Dissolution in Franchising: A Dual-Agency Perspective

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This study conceptually distinguishes unnatural relationship dissolution (URD) from dissolution resulting from completed transactions and mutual agreements. Taking a dual-

agency perspective, we offer a set of propositions on the comparative effects of adverse selection and different forms of moral hazard (i.e., active vs. passive) on URD. We also propose franchise system and institution-level factors as moderators. Finally, we argue that the unnatural dissolution of a dyadic relationship between franchisor and its individual franchisees may go beyond the dyadic level and cumulatively impact the franchisor's pursuit of system growth objectives in the long-run.

18. Consequences of Franchising Maximization Versus Optimization on Firm Performance

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Gary Castrogiovanni, Florida Atlantic University, USA

This paper investigates the relationship between deviation from optimal franchising and firm financial performance. Our study includes 72 publicly-listed franchising restaurant firms in the United States. Drawing from strategic deviance theory, we show that franchising firms that deviate from predictions of resource scarcity and agency theory perform better. Thus, contrary to previous studies, our findings suggest that franchising more or less than the optimal franchising level has a positive influence on firm performance. For franchisors, results highlight the importance of attending to strategic deviance perspective rather than considering resource scarcity and agency costs.

19. Franchising in the Education Sector in Pakistan: Is it Social Franchising? Preliminary Insights from Franchisees

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Rozenn PERRIGOT, University of Rennes 1, France

There is a growing stream of literature on franchising in emerging markets. Some authors have recently focused on a specific form of franchising in such markets, i.e., social franchising. Social franchising exists in different countries, e.g., Myanmar, South Africa, Vietnam and in different sectors, e.g., education, health, rural development. The aim of this paper is to assess the development of franchising in the education sector in Pakistan and its social dimensions. Our main research question is: "Is franchising in the education sector in Pakistan really social franchising?" More specifically, our objectives are the following: 1) explore the dynamics of franchising in the education sector in Pakistan, 2) examine its social dimensions, and 3) look at how the social dimension of education franchising is counterbalanced with the commercial side of this business. We adopted a franchisee perspective and a qualitative approach, conducting interviews with nine franchisees running schools in Pakistan.

20. Knowledge-Based Trust in Franchising: A Franchisor's Perspective

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The importance of trust in business exchange has been widely acknowledged. It plays a key role in increasing information exchange, internal transparency, performance, and represents a critical ingredient for a long-term relationship success. This study examines the effect of general trust and contextual factors generated from the transaction cost theory perspective on the franchisors' knowledge-based trust. More specifically, we investigate how franchise manager's perception of contextual factors as well as personal propensity to perceive people as trustworthy affects the perception of franchisees' trustworthiness, i.e. franchisor's knowledge-based trust. Hypotheses were tested with empirical data collected from a sample of German franchise systems using moderated regression analysis. The results indicate that both general trust and contextual factors have a significant effect on franchisor's knowledge-based trust. Furthermore, general trust also affects relationship between the environmental uncertainty and knowledge-based trust, reducing its negative effect.

21. Choice of Contract Duration in Franchising. Combining Transaction Cost, Resource-based and Relational Governance Perspectives

Nina Gorovaia, Frederick University Cyprus

This study examines the determinants of franchise contract duration by developing hypotheses based on transaction costs, resource-based and relational governance perspectives. Firstly, based on the transaction costs theory, we hypothesize that transaction-specific investments vary positively with contract duration, while environmental uncertainty varies negatively with contract duration. Secondly, we enrich the transaction cost model by including resource-based and relational governance hypotheses. Applying resource-based reasoning we expect that the intangible system-specific and brand name assets of the franchisor vary positively with the franchise contract duration. According to the relational governance perspective, we hypothesize that trust will moderate the influence of transactions costs variables on contract duration. We use the data from 100 German franchise networks to verify our hypotheses empirically. The data provides strong support for the hypotheses.

22. Growth or Profitability? Innovation and Performance in Franchise Networks

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Muriel Fadaïro, University of Lyon, France

Anne-Laure Le Nadant, Normandy University, France

Frédéric Perdreau, University of Lyon, France

The objective of this paper is to determine if innovation leads to an improvement in performance within franchise networks and, if so, to identify the conditions for this improvement. We focus on the mediating role of innovation in the relationship between

entrepreneurial orientation and performance, in the context of franchise networks. From an original sample, regarding French franchise networks, we show that the positive relationship between innovation and performance is moderated by the franchising rate. More precisely, we provide evidence that the moderating role of the franchising rate is negative for growth-oriented measures of performance, whereas it is positive for return-oriented measures of performance. The franchisor's entrepreneurial orientation also directly favors both performance and innovation. This result is mainly robust in the case of franchisors with more than five years' experience. Finally, our results also show that the effect of innovation on performance also depends on the type of innovations.

23. Crowdfunding Theory of Franchising: An Exploration

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Jeremy C. Short, University of Oklahoma

We explore how the emergence of crowdfunding as a funding source potentially alters the franchising landscape and creates new opportunities in franchising research. Crowdfunding—where a large number of individuals make relatively small contributions to organizations via the Internet—has emerged as a widely accessible resource alternative that enables entrepreneurs to quickly attract resources, market knowledge, and managerial talent. Growing anecdotal and empirical evidence suggests crowdfunding may fundamentally change how entrepreneurs fund and manage firms, including franchises. We combine insights from franchising theories and crowdfunding research to illustrate how crowdfunding may become a competing resource alternative to franchising while simultaneously becoming a partner with franchising enabling faster resource acquisition. We discuss how the emergence of crowdfunding contributes to research in franchising.

24. Do Good Soldiers Make Good Franchisees? Examining the Effects of Military Veterans on the Entrepreneurial Franchisee Recruitment—Franchise Growth Relationship

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Effective franchisee recruitment remains a critical issue facing franchisors. Drawing on agency and human capital theories, we consider how rhetoric related to Entrepreneurial Orientation (EO)—the processes, practices, and decision-making by firms that lead to entrepreneurial action—in franchisee recruitment material affects franchise growth and whether military veteran franchisee recruitment efforts alter that relationship. Using a repeated-measures sample of 884 franchise-years from the Franchise 500, we demonstrate that higher EO rhetoric is associated with lower franchise growth; however, the targeting of military veterans as potential franchisees by franchisors moderates the EO rhetoric-franchise growth relationship such that franchisors targeting military veterans benefit from

leveraging an entrepreneurial franchise brand. Our findings suggest that strategic human capital can help create agency advantages in the franchisor-franchisee relationship.

25. Corporate Chains versus Contractual Chains: Examining Competition and Store Development in a LONGITUNAL ANALYSIS of the AutoMOTIVE Parts Retailing Industry

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Achieving coverage where there are an optimal number of retail outlets in a market area is important to understanding the effectiveness of franchised systems and corporate systems. In traditional franchise systems, where the franchisor has shared incentives to increase sales with a franchised-retailer, oversteering a market is avoided in that the wholesaler-franchisor shares in the cost of goods to the retailer franchisee, keeping the number of stores near optimal to maximize gross margins of both parties. Coverage would be thought to be indistinguishable from that in a company-owned chain. In contrast, in business-format franchising, where the franchisor's sales to the franchisee are not a significant proportion of franchisor revenues, the franchisor may have greater coverage to maximize sales revenues and royalties from higher franchisee volume (Stassen and Mittelstaedt 1995). Today, coverage in an important segment of U.S. retailing shows important differences between a contractual, independently-owned chain, versus that found in competing corporate retail chains.

There is a significant difference in the two systems stemming from the financing of inventory costs, specifically the initial inventory investment of the independent franchisee and the corporate chain's 30 days payable, due to its suppliers. Evidence is presented showing that the suppliers to corporate systems are providing increasingly favorable financing of inventory, suggesting that corporate chains with less inventory investment can be more responsive to competitive market conditions. Counter to that hypothesized, corporate systems are more responsive to competitive market changes and traditional, independently-owned, chains are more engaged with changes of their wholesalers.

26. Franchising Constructive Termination: Quirk, Quagmire or a French Solution?

Robert W. Emerson, University of Florida, United States

In *Mac's Shell Serv., Inc. v. Shell Oil Prods. Co.*, 559 U.S. 175 (2010), the Supreme Court held that a service station franchisee pursuing a claim of constructive termination against the franchisor must, under the Petroleum Marketing Practices Act, 15 U.S.C. §§ 2801-2841 (1978), abandon the franchise. This decision has the effect of making the doctrine of constructive termination the functional equivalent of actual termination for these types of franchises. Actual termination usually involves catastrophic injuries to franchisees, which can destroy their economic and business livelihood. In a society so dependent upon the franchise system of business, this imposes secondary harms on the American economy.

Related fields of American law, and other nations' franchise law, specifically that of France, show that a more refined view of constructive termination - embracing the franchisees' possible continued operations under the franchise network's trademark -

presents a fairer, more efficient standard. This paradigm reflects the particular parties' expectations and, more generally, the norms for most franchised enterprises.

27. Franchise Terminations: “Good Cause” Decoded

Robert W. Emerson, University of Florida, United States

The body of law surrounding franchises is far from uniform, including laws governing the termination of franchises. Laws concerning franchises differ from state to state; some states have special laws specifically addressing franchises while other states treat franchises as any other contractual relationship. The legislative definitions differ to some degree even on what constitutes a “franchise.” These diverse views of the franchise relationship greatly affect the rights and duties of franchisor and franchisee alike. These differences also affect how courts evaluate the termination of a franchise relationship.

States that view franchise contracts as legally indistinct from other contractual agreements are typically less protective. In all states, violating certain franchise contract terms can lead to automatic or immediate termination. Even in states with laws intended to protect franchises, the franchise relationship may be terminated for a variety of reasons. However, some states have attempted to regulate franchise terminations with statutes requiring “good cause” for termination – the goal is to balance the unequal bargaining power between franchisors and franchisees.

Statutes or court decisions usually define “good cause” narrowly as the failure of a franchisee or dealer to comply substantially with essential and reasonable requirements imposed by the franchisor or supplier. The test used in defining good-cause center on commercial reasonability. Similarly, the statutory term “unjust” (i.e., unfair) means a termination or nonrenewal made without good cause or in bad faith. In effect, such unconscionability depends on concrete evidence of (1) a franchisee’s absence of meaningful choice and (2) contract terms unreasonably favorable to the franchisor. A franchisor’s presumably superior bargaining power alone does not permit a finding of “unfairness.”

By collecting and examining 342 cases dealing with franchise termination, the author has performed statistical analyses on the frequency, trends, and likelihood of courts reaching a “good cause” outcome while taking into account various factors, such as the existence of specific state laws and the reason for termination. The results from these analyses are used to demonstrate the legal trends, a glaring need for uniform franchise laws, and how statutory modification can reflect what the courts are already doing.

28. Franchise Savoir-Faire

Robert W. Emerson, University of Florida, United States

Savoir-faire is a fundamental concept in European distribution law, including franchising. Judges rely heavily on the application and interplay of the French Commercial Code, Civil Code, codes of deontology, and EU regulations. So, a Civil Law franchise contract requires, inter alia, transmission of savoir-faire (know-how) that is secret, substantial, experimental, and identifiable. American franchise law has little appreciation for savoir-faire, but focuses

on contract terms. This difference in perspective poses enormous consequences for international franchisors and their franchisees. Incorporation of *savoir-faire* into American franchise law would benefit franchisors and franchisees alike.

29. The Neutral Factfinder as a Pathway to Legal Reform: Examples from Franchising

Robert W. Emerson, University of Florida, United States

Expert testimony is often tainted with accusations of bias and falsehood. A neutral factfinder, similar to the French *huissier*, could alleviate many of the problems posed by expert testimony in the American legal system. To demonstrate the effect a neutral factfinder may have, this Article focuses on examples from franchise litigation.

In the franchise context, a neutral factfinder could be used to address a variety of business custom, valuation, intellectual property, and contract interpretation issues that arise between the franchisor and franchisee. The neutral factfinder would help to reduce the bargaining power disparity arising when a small business owner franchisee seeks to take on a much larger franchisor. In these cases, a more powerful party that might have simply inundated the judge or jury with “expertise” is instead subject to a more even contest, with a neutral factfinder helping facilitate that process. Indeed, the benefits of a neutral factfinder are not limited to franchise litigation, but apply in many areas.

30. Franchisees’ Resale Price Policy Facing Legal, Contractual and Professional Constraints: Insights from European and French Perspectives

Guy Basset, IGR-IAE Rennes – University of Rennes, France

Rozenn Perrigot, IGR-IAE Rennes – University of Rennes 1 & ESC Rennes School of Business, France

The subject of resale pricing is a hot topic in franchising, due to its links with chain homogeneity and franchisee autonomy. The franchisee is bound by current legislation and regulations, in addition to respecting the franchise contract clauses to the extent that they are lawful and potentially opposing contentious professional practices. Focusing on resale prices, we cover these three perspectives, i.e., legal, contractual and professional constraints, using a dual approach based on managerial and legal perspectives and illustrating our arguments using examples from European and French cases.

31. Innovation and motivation for new idea generation in franchising network

Fanny Simon, University of Caen, France

Catherine Allix-Desfautaux, University of Caen

Nabil Khelil, University of Caen

Anne-Laure Lenadant, University of Caen

The aim of this research is to understand how franchising networks motivate their franchisees to develop more new ideas and implement them. We demonstrate that franchisors enhance franchisees’ intrinsic motivation to develop new ideas. Consequently,

they provide franchisees with the necessary leeway to adapt franchise offerings, although they still coordinate and facilitate the development of ideas in the network. However, employing motivational tools as drivers is more complex in the context of deploying ideas. Franchisors need to control and maintain the homogeneity of practices within the network. Consequently, they primarily resort to coercive actions and highlight the financial performance of franchise units, which in the long run, can prevent the emergence of new ideas in the network.

32. Franchisees' Optimism Bias and the Inefficiency of the FTC Franchise Rule

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A seminal assumption that underlies current franchise law is that franchisees are intrinsically rational. As such, franchisees are presumed to be able to rationally assess the risks involved in the franchise contract and avoid those risks. Based on this rationality assumption, current law is predominantly based on the FTC Franchise Rule, in which franchisors are obliged to disclose to franchisees information regarding future risks. Equipped with this information, franchisees, as rational actors, are assumed to be capable of protecting themselves against the franchise risks.

This paper questions the validity of the assumption that franchisees are rational actors. Based on a significant body of existing empirical research, which has thus far been overlooked in the legal debate over the FTC Franchise Rule, this article presents the following arguments: First, although franchisees are often perceived as sophisticated business people, they systematically suffer from a common psychological bias: over-optimism about the future. Second, franchisees, being optimistically biased about the future, repeatedly avoid reading disclosure documents, which contain informative data about future risks. The conclusion therefore is that the efficiency of the Franchise Rule in protecting franchisees is dubious.

33. International Area Development Franchising Relationships: A Qualitative Study

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This paper advances the existing knowledge in the international franchising field by developing a first stage of the international multi-unit franchising relationship theory, based on a case study of a major UK-based international multi-channel retailer. Drawing on existing literature and qualitative evidence from 58 in-depth interviews, key aspects particularly relevant for building and managing high performing international area development franchise relationships are classified into seven themes: 1) logistics and supply chain management, 2) buying and merchandising, 3) brand building, 4) marketing and advertising, 5) visual merchandising, 6) communication, and 7) support and monitoring.

Our findings outline the key areas that need managerial consideration for maintaining successful franchise relationships and could potentially be applied across the whole international retailing sector.

34. The Enforcement of China's Anti-Monopoly Law and the Regulation on Restrictive Competition in Franchising

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The promulgation of China's Anti-Monopoly Law (AML) on August 30, 2007 marked a symbolic beginning of a new era for Chinese competition regime. The status of the second largest economic entity and the most franchised country in the world has inevitably resulted in the increased level of competition enforcement activity, which has prompted increasingly growing concern and attention from domestic and international companies. The six years of AML enactment has shown that marvelous and considerable achievements have been accomplished in establishing an antitrust legal system for its socialist market economy. Although China's competition regime framework is relatively new, compared with the antitrust regime in the United States and the European Union, it should be expected that China is certain to deepen its enforcement of competition law and develop into the third leg of the global antitrust regime. This paper will address China's legal framework of restrictive competition, focusing on the manifestations in franchising, then discuss the enforcement of the AML by FOMCOM, NDRC, SAIC and Chinese courts, as well as the reporting of its competition investigations during the last few years, in the combination of some cases analysis in detail. This paper will also identify the balance between IP protection in franchising and the enforcement of the AML, because IP protection is crucial for the franchisors, but the abuse of IP will constitute the monopoly and restrictive competition, which is prohibited by China's AML and the antitrust regimes all over the world. Of course many challenges and problems in the enforcement of the AML will lie ahead of the enforcing agencies, and it is imperative for these agencies to cooperate with each other to battle against these challenges and problems. In the end, some suggestions are put forward to improve the legislation of restrictive competition so that the fair market competition can be protected and the interests of consumers and the society can be guarded as well.

35. The Effects of E-commerce on Franchising: An Exploratory Australian-based Study

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Since its inception in the mid-1990s, business-to-consumer electronic commerce (B2C e-commerce or e-commerce) has come to play an important transactional role in goods and service provision throughout the world ([Schneider, 2011](#)). Over this time, many businesses have adopted online strategies, with some businesses operating purely online ([Floriani & Lindsey, 2002](#)). While it appears relatively easy for traditional retailers to venture into the online transactional space, it has been more difficult for franchises to participate due to a number of complicating factors pertaining to potential encroachment and franchisee acceptance ([Emerson, 2010](#)). Nevertheless, some franchise organisations have embraced the use of B2C e-commerce activities, and have experienced varied levels of success ([Knack](#)

[& Bloodhart, 2001](#)). While some were successful (e.g. Aussie Farmers Direct or Domino's Pizza Enterprises), others have encountered drawn-out periods of conflict and litigation with franchisees (e.g. Dymocks Bookstores and Drug Emporium Inc.), primarily due to perceived encroachment by the franchisor into existing franchisees' territories ([Dymocks Holdings Pty Ltd v Top Ryde Booksellers Pty Ltd, 2000](#); [Knack & Bloodhart, 2001](#)). Nonetheless, there has been a renewed interest towards e-commerce among franchised organisations. Thus, it appears that a better understanding of the factors influencing the successful implementation and operation of online strategies in the unique business setting of franchising is needed in order to minimize the potential for conflict arising from such approaches. In the Australian setting, the long-term viability of the business format franchising is vital for the nation's economy as it accounts for 460,000 employees and a total of \$65 billion in annual sales turnover ([Frazer, Weaven, & Grace, 2014](#)).

36. A Survey on Subway's Competitiveness in Macau

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An investigation of the competitiveness of SUBWAY was undertaken in Macau, a Special Administrative Region (S.A.R.) of the People's Republic of China. Analyzes of the key stakeholders' interests on the firm's value creation and extraction was reviewed with reference to the relevant literature on franchising. The survey found SUBWAY, a late mover in Macau, as moderately competitive in the market with a positive position in the stakeholders' view on its brand. SUBWAY's sources of competitive advantages were derived from its reputation, human capital, and its training and support capabilities to obtain customer satisfaction. Food taste, store location, and value for money, were found as significant predictors of customer view of the value offerings of SUBWAY stores in Macau. Even if 78% of the respondents to the survey knew that SUBWAY was in Macau, only 37% had been to their restaurant. Therefore, being in more strategic locations in Macau is one of the most important factors for future SUBWAY spaces in Macau when deciding future expansion.

37. A Knowledge Perspective of Franchise Brand Management

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Franchising has been investigated using divergent perspectives. However, few have looked at franchising from a branding perspective. This is surprising, since brands are the single most important asset of a franchise firm. In this study, we look at branding from a knowledge based perspective. Using the knowledge based perspective, we propose a franchise brand management system consisting of five key and broad tasks – creating brand value expectation, network-branding, fulfillment of brand value expectation, knowledge feedback

loop, and developing the franchise brand management capability. We also discuss the theoretical and managerial implications of this framework.

38. Entrepreneur-Franchisor in Emerging Economy: An Introspective Study in Mexico

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The notion of a franchisor being an entrepreneur is generally accepted in the franchising field, however, little research has been done to investigate if, how, and why entrepreneurs become franchisors. This study investigates the evolutions of a Mexican entrepreneur-franchisor. We take an emic approach and employ a qualitative research design - subjective personal introspection to understand some of the challenges facing the home grown Mexican entrepreneur-franchisor in their journey towards becoming a significant player in this market. The resultant emerging themes corroborate resource constraint theory and agency theory, as well as institutional learning perspective. In addition, we develop an evolutionary path of a Mexican entrepreneur-franchisor and some of the unique factors that influence the franchise sector in Mexico.

39. Differences in Contract Design Between Successful and Less Successful Franchises

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The aim of this paper is to identify the differences in contract design between successful and less successful franchise chains. Comparing contracts from both groups of companies, we observe, first, that contracts in successful franchise chains are more complete than in the other group and, second, that there are statistically significant design differences between these groups regarding franchisees' obligations, which are more fully covered in the contracts of more successful chains. These findings can be explained both because successful chains are more sensitive to franchisees' opportunistic behavior and because they have learned how to manage and solve any potential conflicts.

40. Franchisor And Franchisee Failures: The Problem Of Determining How Successful Is Franchising

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This paper delineates some of the challenges in determining franchise failure rates. No doubt, franchisors, franchisees and franchise systems fail, but, to date, there appear to be

no reliable statistics on how well or poorly franchising, as a business model, helps businesses, except at the individual system level.

The paper first describes briefly the history of franchise sales regulation in the United States. It then focuses on franchisee failures, noting that, in fact, the data indicating franchisee success is, on the whole, very questionable. The paper observes that a significant part of the problem in assessing franchise failure rates is definitional. There is no established definition of what constitutes a “failure,” and, hence, little basis to conclude whether a franchise has failed.

Turning to the question of franchisor failures, the paper notes that similar obstacles exist in trying to determine how successful franchising, as a business model, may be, from the perspective of a franchisor. The number of studies as to franchisor success are minimal. The paper also describes some crude, but informative, research performed by the authors, indicating that in the largest franchise systems, performance has been mixed, and hypothesizes that if a similar study were performed on smaller systems, the numbers might be less favorable to the franchisor sector of the economy.

The paper concludes by acknowledging that it adds little to prove or disprove the utility of franchising as a business model, but suggests that the area is ripe for more empirical research.

41. Trying to reduce contract terminations: The different views of franchisors and franchisees

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To achieve consistency for the entire franchise chain while assuring some autonomy for the franchisees in the operation of their entrepreneurial ventures constitutes an important source of conflict in franchising that may lead to contract terminations. Franchisors must decide the level of empowerment of their franchisees along with different contract provisions, aimed to improve their capabilities and commitment, to reach the desired balance between standardization and franchisee´s autonomy. However, as we explore in this research, both parties may differ in their assessment of the allocation of decision rights. In this study we focus on pricing and local advertising policies as controversial issues, and analyze how the degree of decentralization of these policies may have a different impact on contract terminations instigated by both sides of the dyad: franchisor and franchisees. Conversely, the study also highlights less conflicting requirements and conditions (e.g. upfront investments, franchisor experience...), that are able to reduce early terminations initiated by both partners (franchisors and franchisees).