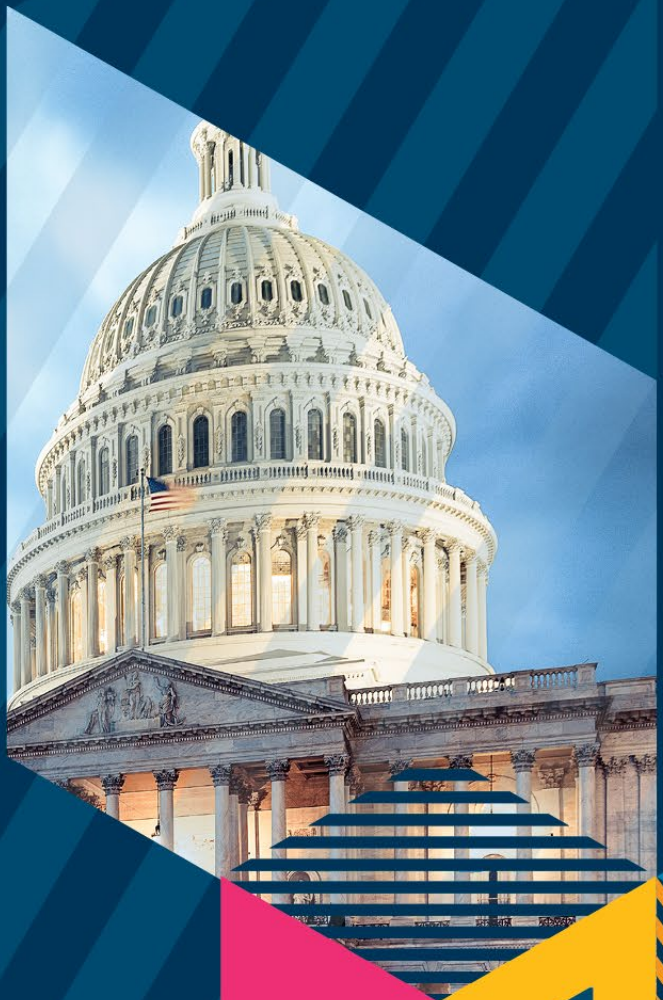
54TH ANNUAL IFA LEGAL SYMPOSIUM



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INTERNATIONAL FRANCHISE ASSOCIATION

Master v. Multi-Unit: International Expansion Trends

- Master Franchising traditional model
- ADA & JV also used
- Area Rep Model – mostly phased out?
- Strategic Alliance
- Cloud Kitchen franchise/service agreement "blends"
- Management/franchise blends
- License Agreements

- Sanctioned countries/white label brands?

Differences in Knowledge & Know How

Direct Franchising	Area Development Agreement	Master Franchising	Strategic Alliance Agreement

(Relative) Knowledge Center

Franchisor

Counter-Party

Master Franchising – Revisiting a Classic

- Single, exclusive Master Franchisee with right to sub-license
- Allows franchisor to “outsource” internatio growth
- Master franchisee responsibilities
- Concurrent Franchisor approval v. unilateral Master Franchisee approval
- Development schedule, IFF share, royalty share
- Buyback opportunities in light of COVID?

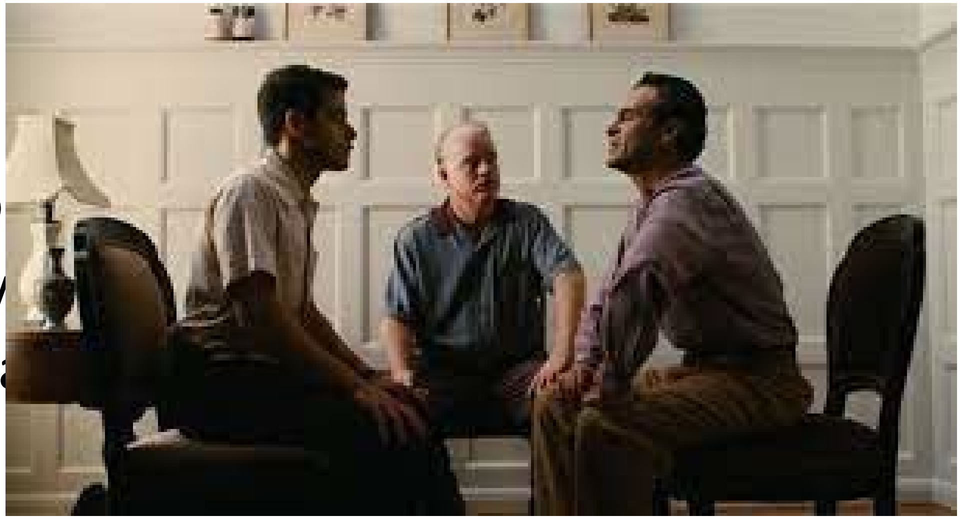
Master Franchising: Pros & Cons

- Speed, speed, speed
- Risk of loss imposed largely upon master franchisee
- Disclosure law obligations borne by master franchisee
- Cash injection resulting from initial master license fee

- All eggs placed in one master basket
  - Initial master franchisee selection becomes CRITICAL
- Termination can be extremely intricate and expensive
- In event of failure, re-entry to market may be impossible / impractical

Master Termination: A Beginning or an End?

- If franchisor intends to Step-In…
  - Limit time between notice and termination
  - Require third-party to manage during transitio
  - Prohibit any new Agreements once notice serv
  - Right to communicate directly with 3d party fr
- If franchisor intends to make clean break…
  - Ability to re-enter
  - Enforcing rights (de-ID, outstanding fees etc)
  - 7-Eleven in India



Area Development Agreement

- Specific Territory granted to a developer who then operates the outlets
- Single unit agreement is signed per outlet OR "operating certificate" model so ADA & Operating Agreement in one document
- Development Schedule & Exclusivity
- Area Developers usually more sophisticated

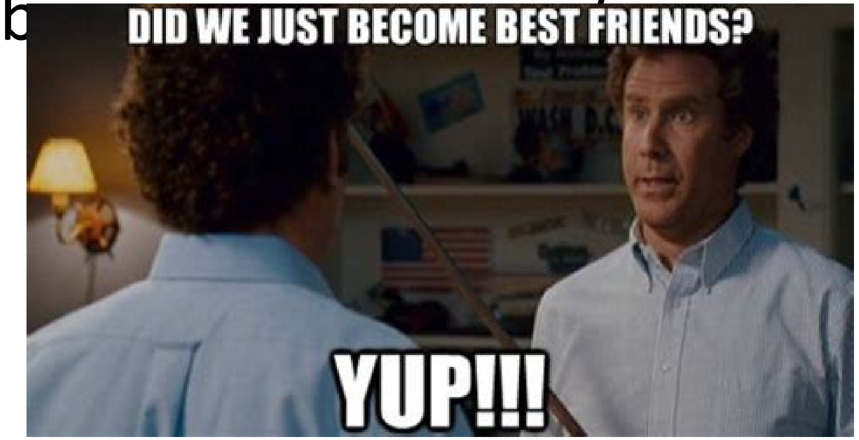
Joint Venture

- Franchisor "Skin in the Game" - $$$
- Corporate considerations around decision making – roles of the parties and who does what
- Licensing/franchising in the IP separately
- Tax & accounting issues
- Can end up with complex corporate structures to protect franchisor and other investor interests (increased compliance & legal costs)

- Also other models where not a JV but a party invests in the other (i.e. franchisee invests in franchisor, or franchisor invests in franchisee).

Strategic Alliance

- Growing practice in hospitality – but potential for other industries
- Franchisor seeking to leverage local operator’s local or industry-specific expertise
- Typically paired with new brand creation
    - But applied to conversion units – more immediate benefit
- Integration of franchisor and operator b
  technology)



- Consider the 4 As
    - Affinity
    - Alignment
    - Accountability
    - Agility

Strategic Alliance – Key Considerations

- Deadlines (for both parties)
  - Brand creation v. Development schedule
- Intellectual Property – Clearly delineate who owns what
- Initial input v. On-going input
  - Brand Council / Marketing Oversight?
- Exclusivity / Non-competition
  - Advantage of SAA is knowledge transfer. Desire to limit competitor obtaining same benefit.
- Upon brand creation, SAA effectively replicates key elements of Area Development Agreement

Cloud kitchen "blend" - Case Study

Note: in a jurisdiction with no franchise law & during COVID times

- cloud kitchen ("CK") purchases from Brand the Brand's physical outlets, staff, drivers, etc by way of asset transfer;
- brand signs Service Agreement whereby CK manages "front-of-house" dining services of the brand, but "back-of-house" kitchens are converted into a central kitchen producing food for multiple brands;
- Service Agreement contains some clauses around brand standards and operations of the dine-in areas but not to the detail you would normally see in a franchise agreement or an operations manual;
- CK obligated to hire as an employee 1 of the Brand's Managers (who is a shareholder of Brand) to control brand quality of both the dine in operations & deliveries of Brand's products
- All IP related to the brand and operations of the dining services stay with the brand
- All IP related to operation of the back of house stays with CK
- All tech related to the sites (kitchens, POS system) are with CK
- CK pays to brand a much higher royalty and marketing % fee than seen in a standard food related franchise (food cost ratios included)
- CK has obligation to refurbish every 5 years the dine-in locations
- No "opening"/sign on fees for new "sites"

Would this be an issue in a franchise law jurisdiction? Is this an accidental franchise?

Effect of Sanctions

- Intellectual Property issues
- White labels – License only?
- Area Developer – can enforce the IP?