

What's the most important ingredient in a successful franchise?

A strong business system? A stand out brand? Successful marketing? All important, no doubt. But, ask any franchising expert, and “The relationship between franchisor and franchisees” will come near the top of their list. Franchising may be a uniquely successful way of spreading a business format, but at the core of any franchise is a relationship, or a series of relationships; between the franchisor and each individual franchisee, between the franchisees, and between the franchisor and the network as a whole.

Ideally, those relationships will be healthy. But, it would be naïve to assume that there won't be tensions, fallings out, even full blown disputes. Sometimes there may be bitter legal wrangles over allegations of broken promises, misrepresentations and so on. Fortunately, these are relatively few and far between. But even in the best run franchises there will be tensions between franchisor and franchisees. And, of course, there will be fallings out between franchisees too.

Faced with a dispute, the franchisor faces a dilemma

On the one hand, they have to preserve the integrity of the network – for their own sake, of course, but also for the sake of every other franchisee. In the age of email an unresolved disagreement can spread round the network in a matter of seconds, and

actions groups can be in placed within days. Countless successful franchise networks have failed (often incurring heavy legal costs along the way) because of the poison of what may have started out as a relatively minor dispute.

On the other hand, if the franchisor responds inflexibly, perhaps resorting to lawyers in an (expensive!) attempt to crush dissent, resentment can spread equally quickly. The franchisor can be trapped between a rock and a hard place; either being perceived by the network as weak, or as a ruthless dictator who rules by fear. No sensible franchisor would want either!

The solution may be mediation. Nationally around 76% of mediations produce a settlement, and its effectiveness is now so widely recognised that the Civil Procedure Rules now require all parties to any dispute to consider mediation before going to court. The BFA supports the move, maintaining a register of franchise experienced mediators.

All of which explains why an increasing number of franchisors are turning to mediators like Martin Plowman of mediation-1st. Martin has over twenty years experience as Head of Franchise Litigation at franchising specialists Leathes Prior, besides which he understands franchising “from the inside” having franchised the mediation-1st brand himself. Which makes it no surprise that he is probably the busiest member of the BFA mediation panel, and mediates around one hundred cases a year across the country. Mediation, he explains, is confidential, quick (arranged in a matter of days), and cost effective. Last year the settlements Martin helped parties to achieve at mediation saved the parties (on their own figures) £2.3 million! Martin estimates that the total costs of the

mediations were less than 5% of that figure. And, above all mediation is commercial. “Sometimes the result is an amicable parting of the ways”, says Martin, “sometimes it’s a shared determination to move forward together, but whatever the outcome, it’s one that reflects the commercial needs of the parties”.

Mediation can also be particularly effective in cross boarder disputes, where the costs of litigation can spiral out of control quickly. Mediation-1st has extensive experience of mediating international franchise or master licence disputes, and offers Mediators who are bilingual English /German and English / French.

So, when you next assess the strength of a franchise, you might add another question to your list: do they use mediation?