

знака должна быть ясной, легко воспроизводимой, а само представление – понятным и объективным. Разумный подход к расширению регистрируемых форм товарных знаков способствовал бы развитию рынка и позволил бы защитить права и законные интересы производителей, увеличить объем инвестиций в экономику Республики Беларусь.

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## **FRANCHISING AS A MODEL FOR DOING BUSINESS**

### **Н. Фоменок**

The business model of franchising is a mode of doing business under a famous brand. How does it work? Let us imagine someone, who has started a business (opened a new restaurant). Then this person expands his chain in the city. Inspired, the owner expands even further. At some point it becomes incredibly difficult to control all these restaurants. Nevertheless, what if there is a strong desire to expand internationally? That is where the business model of franchising comes into good use.

The owner proposes a new set of rules, which help to maintain brand standards. Such standards may include special wall color, required marketing, and even staff guidance. Later on the owner finds an entrepreneur in another place, they sign a franchise agreement – and the user gets the opportunity to build a new business under a famous brand. The advantages of franchising are as follows: the brand user does not have to start from scratch. Consumers will buy because they know what this particular brand may offer.

The definition of franchising (set forth in Art. 910 of Civil Code of Belarus [1]) says that «under a contract of complex entrepreneurial license (franchise), one party (right holder) undertakes to grant to the other party (user), for re-

muneration, for a period determined in the contract of franchise or without specifying a period, a license complex including the right to use the corporate name of the right holder, other intellectual property objects provided by the contract of franchise and also undisclosed information, in the entrepreneurial activity of the user».

The Association of franchisers "Belfranchising" provides many advantages of franchise ownership and these outweigh the disadvantages in the long run: low risks, high-speed business development and the interest and involvement of the user into the brand which allows entering new local, regional and international markets promptly. The user, in his turn, gets a well-known brand, gets support and training from the brand owner [2].

At the same time we cannot assert that franchising is the easiest business model for the parties. A user will have to pay royalties to the patent owner for using the brand name, and these payments are usually high. Additionally, the agreement as a rule imposes new responsibilities on users, and even the slightest element of breach can lead to the termination of the agreement. An owner, in his turn, will have to provide training and find out if business goes within standards in order to maintain the reputation of a brand name.

In Belarus the process of franchising regulation is under development. In 2004 new provisions were added to the Civil Code. Since 2005 around 130 franchise agreements were registered in Belarus. This number is relatively low considering the size of the market of Belarus [2].

Many famous international brands chose franchising to develop their business (Zara, McDonald's, KFC). Once the user finds an international brand owner, they are to sign a franchise agreement. In Belarus such an agreement is registered at the National Center of Intellectual Property (NCIP) [3]. Therefore, the agreement shall be localized prior the signing so that it contains all the important requirements of laws of Belarus. Since there is no single franchise law, several legal acts are to be analysed. The peculiarities that NCIP pays special attention to can be found in Instruction No. 6 [4]. One of such local regulations that make the prerequisite for registration is the subject of the agreement. The subject includes corporate name, undisclosed information and some object of intellectual property rights. Therefore in practice only a legal person can be a franchisor (even though the civil legislation allows an individual entrepreneur buying a franchise, see Art. 910, part 3 Civil Code), since an individual entrepreneur cannot be an owner of the corporate name (Civil code, Art. 1013, Art.1015).

One of the interesting peculiarities of the franchise regulation in Belarus is the subsidiary liability of the brand owner for claims related to a low quality of service or a poor quality of the goods (Civil Code, Art. 910-6). Just imagine that the user has dirty tables in the restaurant, but the brand owner is

forced to face the claim of a consumer. De facto, there were still no examples of cases when the owner was found liable for the misconduct of the user. Such liability, in our opinion, will come to the owner only after the claim is first presented to the user (Civil code, Art. 370). Otherwise, if the claim by an unsatisfied consumer is presented directly to the brand owner, this will violate dispute settlement procedures of Belarus.

Therefore, even though the franchise regulation in Belarus is a relatively new process, it is a forward looking model of doing a new business. We hope that the regulation of franchise will be improved considerably using fairly wide experience of some other states. It will remove an ambiguity of franchise regulation and will attract new prospects to business in Belarus.

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4. Об утверждении Инструкции о порядке регистрации лицензионных договоров, договоров уступки прав на объекты права промышленной собственности, договоров о залоге имущественных прав, удостоверяемых свидетельством на товарный знак, знак обслуживания, и договоров комплексной предпринимательской лицензии (франчайзинга) // Постановление Государственного комитета по науке и технологиям Республики Беларусь от 15.04.2009 № 6 // Консультант Плюс: Беларусь. Технология ПРОФ 3000 [Электронный ресурс]. / ООО «ЮрСпектр», Нац. центр правовой информ. Респ. Беларусь. – Минск, 2013.

## **УРОВЕНЬ И КАЧЕСТВО ЖИЗНИ В БЕЛАРУСИ И ЛАТВИИ: СРАВНИТЕЛЬНЫЙ АНАЛИЗ**

**Ю.В. Ходаковская**

Вопрос исследования проблемы повышения уровня и качества жизни является очень актуальным на данном этапе мирового социально-экономического развития. Современная экономическая ситуация в Латвии и Беларуси требует принятия решений, обеспечивающих стабильный экономический рост и достижение более высокого уровня благосостояния населения.

Именно поэтому темой исследования является сравнительный анализ уровня и качества жизни в Беларуси и Латвии, а также оценка показателей, характеризующих данные понятия. Актуальность темы заключается в том, что в сложившихся условиях необходимо заботиться о повышении уровня жизни населения страны, как необходимом условии сохранения и развития человеческого капитала, являющегося одним из основных факторов экономического роста.