

Disagreeing with Your Franchisor

Know your rights—and limitations—in disputes with franchisors.

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Q: I'm a franchisee of a retail specialty chain. For the past three months, I've been selling a new product I found through one of my local vendors. My customers are thrilled with the new product, and it's selling very well. My franchisor's field representative was in this week and told me the product was not authorized and that I had to stop selling it immediately. Because I'm paying royalties on the new product, I don't understand why my franchisor cares what I sell and why I have to stop selling it. What do I have to do to make my franchisor allow me to sell this product? I'm so angry by the situation that I'm ready to sue my franchisor for the lost sales if I lose this item.

A: Whoa! The first thing to realize is that, even in the best of relationships between franchisors and franchisees, disputes will occur from time to time. But going to your attorney every time you have a dispute is the wrong way to solve problems. The only person who'll benefit from that strategy is your attorney. The best method is to examine the situation, engage your franchisor in conversation, look for common ground and try to resolve the problem between the two of you.

Let's keep in mind that your relationship with your franchisor is ultimately governed by the franchise agreement you signed. If this agreement gives the franchisor the right to approve all the products and services you offer in your store (and the majority of them do), then you likely violated your franchise agreement by not getting permission to sell the new product. You may have discovered the perfect product for the franchise system to offer, but you introduced it the wrong way.

In most franchise systems, there is a process for requesting permission to offer new products or services. The reason franchisors allow and even encourage their franchisees to recommend new products or services is that it helps the system improve its consumer offering. Good franchisors look for mutual success, and some of the best ideas in franchising have come from franchisees. But good franchisors also make

decisions based on what is best for the system. If the franchisor feels the product or service doesn't benefit the entire system, it will usually turn down the idea.

Assuming you didn't follow the proper procedure and ask for permission in advance, what do you do now? First of all, harness your anger. Understand that the franchisor has a right to be upset with you for violating your agreement.

Now your task is to restore your relationship with your franchisor. Call and explain why you introduced the product. Describe what the results have been in your store, and provide them with any research you conducted before you offered the product. The franchisor will be interested in information about your costs, new equipment that was required to make the product, overall economic impact on your store and supplier information, among other things. You should also describe your customers' reactions to the new product and your thoughts on how it fits into the overall concept.

Franchise systems will often choose to test a product or service in a particular location. Ask your franchisor what the process is in your system and whether they'll consider the new product for testing. If they will, ask if you can participate in the testing.

If the franchisor says no, you'll probably have to remove the unauthorized product from your store. In some franchise systems, however, there may be other internal mechanisms for introducing new products through a subcommittee of the Franchisee Advisory Council. If that mechanism is available to you, determine the procedures and go down that path.

At this point, if you still have no support for the new product, you have a few choices to make. You can still seek advice from your attorney. But because the franchisor typically has the right to choose what's being sold to the public under its brand, you may have to drop the matter and bring your store back into compliance. If all else fails, you can always sell your franchise to someone better-suited to the restraints of a franchise system.