

The Relationship between Franchisor and Franchisee

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Question: I have three specialty retail stores. I have been in business for 6 years and all three stores are doing very well. Earlier this year I was approached by one of my customers who indicated that he would have an interest in opening one of my stores. This got me thinking about franchising and I have done quite a bit of reading on the subject. One article I read states that the relationship between franchisor and franchisee is like a parent-child relationship. Can this be true? What is the relationship between franchisor and franchisee? Will I be responsible for the success of each franchisee?

Answer: A franchise is a business relationship governed by a contract or franchise agreement. The franchisor owns the trademark(s) and the operating system for the franchise. The franchisee is licensed *to use* both the trademark and the operating system according to the terms and conditions set forth in the franchise agreement. Both the franchisor and franchisee must fulfil their obligations under the contract.

While the parent-child analogy is used on occasions to describe the relationship between a franchisor and franchisee, it is neither the legal relationship nor even the practical business relationship. As a very simplistic analogy it can often confuse people unfamiliar with business relationship.

Yes, the franchisor teaches the franchisee how to operate according to the system and yes, the franchisor assists the franchisee in growing their business and yes, the franchisor establishes many of the rules and boundaries for operating the business. But, franchisees are not children. They have made a business decision to purchase the franchise and have voluntarily agreed to operate the business according to the rules and boundaries set forth by the franchisor. They are responsible for the activities of the business and its failure and success are typically their responsibility.

Potential franchisees are provided information about the franchise and the contract in the Uniform Franchise Offering Circular (UFOC) prior to their making the decision to become a franchisee. They have ample opportunity to review the documents and to seek professional (legal, accounting, etc.) opinions regarding both the viability of the business concept and the terms of the contract. If their investigation of the opportunity leads them to believe that it is not “right” for them, they are free to look at other franchises – or to start their own business.

If they choose to become a franchisee and later decide that it was the wrong decision, most franchise agreements allow them to sell their business.

By and large franchisors want their franchisees to succeed and most work hard to provide their franchisees with the tools and coaching they need to be successful. However, franchisees are independent business people and they make many business decisions that ultimately can determine the success or failure of their business. How well they execute the franchisor's operating system, whom they hire, how much they pay their employees, how they schedule their employees, and what prices they charge for their product or service can impact their bottom line. While the franchisor can offer advice in these areas, these crucial decisions are the prerogative of the franchisee.

At least in our families the parents for many years have responsibilities to guide their children daily on almost every step of their lives. The child is protected from their mistakes and Mom and Dad make things right when things go wrong. That's not franchising.

Franchisees are independent business people and are in significant control over their destiny from day one. Depending on circumstances they sometimes fail. In most families, when a child is failing parents do everything they can – often putting everything they own at risk – to save their child. That is not the case in franchising. While a franchisor can be supportive and provide guidance, they do not have the right to risk everything they own to save the franchisee. They do not manage the franchisee's business and cannot put the system at risk as a parent would for their children.

So, no, a franchisor is not the franchisee's parent and the franchisee is not the franchisor's child. They are business people in a contractual relationship – and that is the reality.