

## Buying an existing franchise business

Franchising is a great way to set up in business. It allows an opportunity to be your own boss, but with the training and ongoing support and branding of a major business outfit – so that you never feel like you are ‘on your own’

But it can be tough starting from scratch in business – even in a franchise system. There is always the option of buying an existing franchise business from someone looking to exit.

On the negative side you can expect to pay more for an established franchise business, but on the positive side you will be acquiring a fully fledged business with a regular customer base which is hopefully already profitable.

### The purchase contract

As well as signing a franchise agreement with the franchisor you will be signing a business purchase agreement with the existing franchisee who is selling up. There is far more room for negotiating the terms of a business contract than in a franchise agreement. Do not make the mistake of thinking that it is a non-negotiable document. You will need to consider the way the purchase price is paid (all paid up front or partly paid in instalments?) and the restrictions placed on the exiting franchisee (not to open competing business in your territory?) amongst other concerns.

### Due diligence

Due diligence is the process of investigation that the buyers of a business undertake prior to signing the contract. It is roughly comparable to the searches that your solicitor undertakes when you purchase a property. Except with a business the investigations need to be more detailed and to cover more ground.

The success or failure of the business in the post-completion period can depend to a large extent on the success of the buyer's due diligence investigations. It is far easier for a buyer to hit the ground running with a business that he has properly assessed the strengths and weaknesses of. Make no mistake, every business has strengths and weaknesses and it is the job of the due diligence enquiries to inform the buyer as to what he is buying and where the potential risks might lie.

Franchising has a much lower business failure rate than starting a business from scratch, but where franchises do fail it is usually because the franchisee hasn't concentrated enough effort on the due diligence process.

### Staff liabilities

It does not matter if the buyer is buying the shares or just the assets of a franchise business – he will always take on its employees. These days, there is a weight of complex employment legislation that gives employees more rights than ever before.

Where a buyer takes on someone else's employees he will have to assume responsibility for any breaches of employment regulations, even if these date from the period before he took over the business. An informed buyer will insist that the purchase contract contains warranties and indemnities given by the exiting franchisee that he will be responsible for any employment issues arising before the take over date.

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**Seller's reasons for exiting**

Lastly, and it seems obvious, make sure you know the real reasons why the Seller has decided to sell his existing franchise business. On most occasions the reasons are legitimate, such as retirement, a desire to pursue other interests, or to move abroad. But a sale is usually the only way that franchisors will permit an existing franchisee to exit from the franchise system. This will mean that there are plenty of unsuccessful franchises that come up for sale as well. This may not put you off, but do take the time to find out why the business proved to be unsuccessful. Was it because the franchisor was not fully committed? Is there increased competition in the franchise territory? Or is it because the cost of the franchisor's products or fees are making it too hard to make a decent margin?

The successful franchisee is always fully informed. The fully informed franchisee is always well advised by experts with franchising experience.