

Top of Mind®

“How do you meet the regulatory challenges of a growing franchise business?”

“Appreciation and respect for changing regulations.”



Donald A. Burleson

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For nearly four decades, Jani-King has been the leader in the commercial cleaning franchise industry. From a modest start, Jani-King now is the world's largest commercial cleaning franchise company with more than 12,000 franchises serving thousands of customers in 17 countries.

With this profile, it's understandable that staying abreast of developments in the regulation of franchising arrangements is not just a preferred practice for us. It's the core of our business. As general counsel, I am responsible for directing the company's regulatory compliance program. I, along with Jani-King's assistant general counsel, am also responsible for all other legal matters of the company.

Although we have grown internationally, the web of regulations surrounding the franchising business in the United States is still the most intense in the world. In fact, many foreign countries don't have specialized franchise regulations.

For the last three decades, the Federal Trade Commission (FTC) and several states have sought to regulate the industry. The FTC adopted its own Franchise Rule, while state franchise regulators adopted the Uniform Franchise Offering Circular (UFOC). In 1979, the FTC permitted the UFOC to be used in lieu of its own disclosure format; and it has become the disclosure format of choice for most franchisors. In order to bridge the gap between the UFOC and FTC disclosure formats, the FTC amended its Franchise Rule last year with the introduction of its Franchise Disclosure Document (FDD) which must be used by all franchisors in the United States by July 2008.

Federal and state franchise regulations require us to continually update franchise disclosure documents and no less frequently than on an annual basis. It is my responsibility to incorporate system changes into our disclosure documents and franchise agreements, and update these documents to comply with these regulations. In several states, these documents must be submitted to state regulators for review and approval with state-specific regulations. The documents also serve as a template for our numerous master franchised regions which conform them to their status as sub-franchisors.

Franchising is a ubiquitous business model in the United States. Some estimates state that up to 40 percent of retail sales in this country are through franchised outlets. Success in this field, however, requires an ongoing appreciation and respect for the changing regulations of franchising businesses. At Jani-King, this role is an important part of what our legal function is about.

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