Photo by Thiên Triều

FRANCHISING
Opportunities and Challenges to Local Companies

by MEcon. NGUYỄN NGỌC QUẾ TRÂN

Franchising has made its appearance in Vietnam in the late 1990s but it didn't receive full attention because of lack of legal infrastructure. From 1996 to 2001, products of some of the world's leading franchisors, such as KFC and Dilmah, came to Vietnam. In 2000, many people were surprised at the birth of chain stores of Trung Nguyên Coffee with consistent designs, displays, and service style. In 2003, the chain of Phở 24 restaurants marked the first stage of development of franchising in Vietnam.

In 2006, new rules were passed to recognize and materialize the state control over this way of doing business. Through mass media, many conflicting opinions along with misunderstanding about this practice have reaches consumers, making many businesspersons feel confused when studying or deciding on this new way of doing business.

1. Golden opportunities for foreign franchisors

With the introduction of rules on franchising, foreign franchisors started to come into Vietnam. Before 2000, franchisors only gave licenses, that is, giving permission to use their brand name within a certain period under their supervision.

In 2004, according to the World Franchise Council, over 65 foreign franchised brand names were present in Vietnam. Although they were not as many as in neighboring countries, most of them are internationally famous ones. Some time in the years 2000-2002, An Phước Garment Company became a center of attention when it received a license from Pierre Cardin.

In 2000, the BTA between Vietnam and the U.S. was signed. It also mentioned intellectual property, copyright and franchising. Apparently, the American Government paved the way for appearance of American brand names in Vietnam.

In 2006, Vietnam became a WTO member and held successfully the APEC Summit, which attracted more attention from foreign companies. Bill Gates from Microsoft visited Vietnam with some projects in mind. Intel decided to invest one million dollar in Vietnam – the biggest investment ever seen in the past 20 years in Vietnam. As a WTO member, Vietnam has to open its service sector to foreign competition. The 2005 Commerce Law (effective as from Jan. 1, 2006) includes a chapter on franchising. Many international organizations estimated that Vietnam would experience a boom in franchising in 2007 because of the above-mentioned factors. According to unofficial source, five foreign franchisors applied in the first quarter of 2007 for introducing their products to Vietnam while three local franchisors also waited for permission to do the same in foreign countries. Many foreign and domestic economic forums predicted that in 2007, at least 30 foreign companies that possess internationally famous brand names wanted to do franchising in Vietnam or started making market researches with a view to developing their chain stores in Vietnam.

2. Advantages and challenges to local companies

a. Advantages:

- No economy could grow without development of the franchising: Many local companies have made plan to expand their operations into important markets, such as Japan, the EU and the U.S. Franchising helps them enter large markets at low cost and at the same time protect their brand names in foreign markets. Trung Nguyên Coffee is present in Japan, Cambodia, Singapore and Thailand. Phở 24 Company has built its outlets in

Indonesia and the Philippines and made plan to build more in Singapore, Malaysia, Thailand, Taiwan, Hong Kong, South Korea and Japan. The XQ Silk Embroideries has also franchise its brand name in the U.S. at a price of US$100,000.

- By entering franchise agreement, local companies have opportunities to get access to modern business practices and managerial methods because they have to do business according to standards set by foreign partners, especially in businesses that are new to Vietnam.

- Presence of internationally famous brand names franchised to local companies could give foreign investors and tourists an image of Vietnam as an active, familiar and friendly country, thereby helping promote business opportunities in Vietnam.

- Many local products are saleable in both foreign and domestic markets because of clauses in agreements that require the use of local materials.

- To start a new business or brand name involves a high degree of risk (up to 90%). Entering a franchise agreement can help franchisees avoid such risk by making the best use of franchisors' competitive edge, and marketing and training ability.

- One of the biggest advantages of the franchising is support in terms of marketing activities from the franchisor who can agree to cover costs of advertisement and promotion campaigns.

b. Challenges:

- There are not many remarkable brand names built by local companies. Talking about successful franchising by local companies, ones usually think of Phở 24 although Trung Nguyên is a pioneer in this field (since 2000), because Trung Nguyên could help open identical coffee shops all over Vietnam but it failed to develop its standards and principles according to professional franchising model as Phở 24 did. And as a result, the chain of Trung Nguyên café has stopped developing since 2004.

Phở 24 made its appearance in 2003 and its franchising is done according to basic principles of this business: rights are given for a fixed period of time; royalty is paid; supervision is carried out; and so on. In addition, ad campaigns are carried out professionally with the result that it has opened over 20 franchised restaurants within three years. In 2006 in particular, Phở 24 opened its franchised stores in Indonesia and the Philippines. Some experts even predicted that it would enter Hong Kong, Japan and South Korea in the near future.

Besides them, we can mention other brand names, such as Kinh Đô Bakery, Ninomax, Foci, and T&T Footwear. One of encouraging signs is the fact that T&T is preparing to franchise its products to partners in Malaysia and Australia.

Generally speaking, however, Vietnam has no internationally approved brand names like McDonald, KFC or Lotteria. The franchising in Vietnam, and by local companies, looks like an experiment while the Government has no policy to encourage this business with the result that only a few companies consider this business practice.

- Imperfect legal infrastructure: The 2005 Commerce Law, Decree 35/2006/NĐ-CP dated March 31, 2006 and Circular 09/2006/TT-BTM dated May 25, 2006 provide some legal infrastructure for the franchising but many rules they introduce are not appropriate to new developments of this business and other rules imposed by other laws and codes. For example, they provide no sanctions against companies that carry out the franchising without approval from the Ministry of Trade or provincial service of trade with the result that those companies can enter into an agent contract in which they agree to allow the agent to use their brand names and do business according to their terms like a franchisee.

The 2005 Commerce Law considers the franchising as an act of "giving exclusive business rights" to a partner and includes it in "technology transferring" category, but Article 7 of the 2006 Technology Transfer Law (effective as from July 1, 2007) excludes the franchising from the technology transferring category. In addition, the 2005 Intellectual Property Law stipulates that the transfer of rights to use the intellectual property must be done according to a contract to use the intellectual property, while the above-mentioned Decree 35 says that such transfer will be a separate part of the trade agreement that is regulated by the Industrial Property Law. Similarly, tax rules don't provide for ways to deal with royalty and income from the franchising.

With shortcomings in legal infrastructure, financial and business management, local companies will meet with fierce competition when foreign products flood the domestic market by franchising.

To help local companies survive at least in the domestic market, the Government should adopt policies to promote, supply information and advice about, and give training courses in, the franchising.

The Government can encourage companies that want to engage in this business to form their trade associations in order to exchange experience and necessary knowledge and information, and give opinions and feedback when the rules on franchising is perfected. For the time being, the Government should adjust existing rules and laws relating to the franchising with a view to making them consistent and appropriate to international practices and developments in the domestic market ■