

Welcome to IF Consulting's e-Newsletter

November 27, 2006

Our regular email tackles the topical issues that surround all marketing channels and their underlying strategies.

Crime and Punishment

One of Mailboxes Etc.(MBE) most successful franchisees is facing an uncertain future as the parent company, United Parcel Service (UPS) refuses to renew his franchisee agreement. Howard Spanier was forced to become an independent store this year, after 18 years of operating under the MBE banner. "If this was a failing business, I might understand UPS," Spanier said, "but I've been officially recognized as the MBE Franchisee of the Year. Plus, I'm not the only one facing this situation; there are some 30 other MBE owners in the same position, from California to New York -- all being told by UPS to accept the unprofitable UPS Store program or go independent. I didn't buy this franchise to go independent. I bought it so I would have the value of my eighteen years of equity in the MBE brand," continued Spanier.

Along with 130 other MBE franchisee holders, Spanier formed a group called Platinum Shield Association in 2003 and filed a lawsuit against UPS. The franchisees have accused UPS of intentional misrepresentation, concealment and breach of contract, intentionally failing to disclose performance and financial data, in addition to multiple violations of franchisee laws among other allegations.

<http://biz.yahoo.com/prnews/061119/lasu002a.html?.v=1>

A settlement valued at more than US\$125 million was handed down by a US District Court judge in favor of Snap-on Tools franchisees. The settlement affects over 6,000 current and former Snap-on dealers ends three years of litigation. The former dealers alleged that because of deceptive business practices on the part of Snap-on, their franchises were caused to fail.

As a result of the court ruling, Snap-on has agreed to make changes to its franchise distribution model and business practices, such as reducing the required investment for initial inventory and improved initial training for new franchisees.

<http://www.app.com/apps/pbcs.dll/article?AID=/20061028/BUSINESS/610280364/1003>

IF Comment

The above two articles may be classed as franchising's version of "Crime and Punishment". A US District Court judge approved a settlement of over US\$125 million to a group of franchisees who claimed to be seriously disadvantaged because of deceptive business practices by Snap-on Tools.

On the possible "crime" side are a group of franchisees who claim to have been misled by UPS, the company that bought its franchisor, Mailboxes Etc. Quoting from the article, "Store owners are seeking compensatory and punitive damages, as well as legal fees and costs." Franchisees are alleging that their franchisees are not being renewed despite promises that they would be.



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The Spanish born, American philosopher George Santayana said, "Those who do not heed history, are condemned to repeat it". Will history repeat itself with UPS?

Those who study American franchising history will understand that because American courts award treble punitive damages and lawyers work on contingencies of 33% of judgments, taking on a group of franchisees can be an expensive exercise.

A check of American franchise history will show a considerable number of franchisors going out of business after losing class action suits brought by franchisees.

Snippets

Two well-known identities in the area of early-childhood education are joining forces. LeapFrog educational products, tools designed to inspire learning in toddlers, will now be available through the Gymboree early development centers.

<http://www.floridatoday.com/apps/pbcs.dll/article?AID=/20061123/BUSINESS/611230318/1003>

One of the UK's retailing stalwarts is to open motorway sites. WH Smith said the agreement with Moto and Swayfield would bring its products and services direct to motorists for the first time. The Moto stores will be operated under a franchise agreement, with the majority opening next year.

http://www.thisismoney.co.uk/investing-and-markets/article.html?in_article_id=414957&in_page_id=3

According to a recent study, the key ingredient for franchising success is choosing the right people. Griffith University's Franchising Australia 2006 survey found that 24 of Australia's top 500 companies are franchises and the sector now turns over \$128 billion a year (14 per cent of GDP). Research director for the report, Professor Lorelle Frazer, says one of the effects of such strong growth is that franchisors now have to work harder to find good franchisees. "It's very difficult to do. It's an art, not a science."

<http://www.theaustralian.news.com.au/story/0,20867,20759154-5000920,00.html>

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