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The Legal Challenges of Franchising in Pakistan's Commercial Sector

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Abstract

Franchising has become one of the vibrant business models in Pakistani developing commercial environment and this provides growth opportunities to foreign and local business entrepreneurs. Nevertheless, the legal framework that is involved in franchising is still immature and disjointed. Although some elements of Pakistani law related to commercial regulations include contract formation, intellectual property, and competition management, it does not allow both a unified or a franchise-focused legal system. This gap in the law leaves both the franchisors and the franchisees in ambiguities that are characterized by inconsistency in the contractual performances, inadequate enforcement process and ambiguity in regulations.

The current paper takes a sharp look at the legal issues that surround franchising in the commercial industry in Pakistan. It is started with conceptual overviews of the franchising mode, and it is pointed out that there is its significance in global and local markets. The paper proceeds with the evaluation of the existing commercial law regime in Pakistan by major legislations including the Contract Act 1872, the Intellectual Property Organization Act 2012, the Competition Act 2010, and other provisions on taxes that indirectly impact franchising systems. They emphasize especially the difficulties associated with a deficiency of disclosure requirements, mechanism of dispute resolution and protection of proprietary business aspects.

This paper also gives a comparison of how other jurisdictions of advanced franchising law, Britain and Malaysia, and the United Arab Emirates, come up to any meaningful comparative significance in illustrating some regulatory approaches that Pakistan can adopt. These global procedures lay importance on transparency, standardization, and legal certainty, which are the weaknesses of the framework of Pakistan.

In addition, institutional and policy-level gaps discuss the research, e.g. the establishment of a specific regulatory body, unequal treatment of foreign franchise agreements, and the absence of national policy of franchising. These restrictions discourage foreign investment as well as stunt domestic franchise since service sector and retail sectors.

Finally, the paper recommends a law that should be wholesomely overhauled to reflect the Pakistani socio-economic reality. It suggests the development of a Franchising Act which will unite the available rules and provide the new ones aimed at registration, disclosure, application, and dispute resolving. This sort of reform would be necessary to instill some trust, attract investment, and create a sustainable growth within the franchising industry and, therefore, contribute to a broader commercial development program in Pakistan.

Key Words: *Franchising, Commercial Law, Pakistan, Legal Framework, Foreign Investment, Regulatory Reform*

Introduction

Finally, the paper recommends a law that should be wholesomely overhauled to reflect the Pakistani socio-economic reality. It suggests the development of a Franchising Act which will unite the available rules and provide the new ones aimed at registration, disclosure, application, and dispute resolving. This sort of reform would be necessary to instill some trust, attract investment, and create a sustainable growth within the franchising industry and, therefore, contribute to a broader commercial development program in Pakistan.¹

Regardless of its business opportunity potentiality, franchising in Pakistan is woven into a considerably complicated framework of general rules, with most of them being based upon the colonial rules. Legal uncertainty comes about as a result of the absence of a specific statute of franchising, which more often renders both the franchisors and franchisees vulnerable to ambiguous liability, unacceptable legal recourses and enforcement difficulties.² The existing legal framework in Pakistan is based on common principles of contract law, intellectual property as well as laws of competition to regulate the franchise relationships. These laws provide some minuscule protection; however, they fail to cover the particular fact of franchise causes and hazards, consisting in disclosure, territorial boundaries, demolition, as well as control provisions.³

¹ 5, "Pakistan - Franchising," January 12, 2024, <https://www.trade.gov/country-commercial-guides/pakistan-franchising>.

² "Josh and Mak International," accessed July 21, 2025, <https://joshandmakinternational.com/franchise-agreements-in-pakistan-strategic-legal-advice/>.

³ Suhaila Zulkifli and Tajuddin Noor, "Reconstructing Legal Protection Regulations for Parties in Franchise Agreements Based on Dignified Justice," *Khazanah Hukum* 6, no. 3 (2024): 3, <https://doi.org/10.15575/kh.v6i3.35538>.

The paper discusses the legal issues of franchising in Pakistan in the commercial industry through highlighting the gaps in regulation and efficiency of the existing legal tools. In the process, it also makes the comparisons by other nations that have organized the policies on franchising regulations in order to suggest the reforms that are applicable in Pakistan. As franchising plays a strategic role in encouraging economic growth, job creation and competitiveness in the economy, a systematic legal framework is necessary in developing investor confidence and stability in the industry in the future.⁴

The research takes a doctrinal pursuit which is based on statutory interpretation and policy examination, complemented by the extrapolation of other jurisdiction perceptions. It does not only aim to criticize the current legal system but offers effective advice on how the procedures of legislative work and policymaking can be changed.⁵ Without this specific reform, there is a danger that Pakistan will remain stuck in one of the potential mainstay sectors of the economy that might lead to a healthy GDP and business dynamism.

Understanding Franchising in the Global and Pakistani Context

Franchising is an agreement business that involves the owner of a trademark, brand or a business system (the franchisor) allowing another party (the franchisee) to use that trademark, brand or business system by paying fees, royalty or revenue percentage. Franchising has been proved to be a successful concept of expanding businesses in the world and especially in fast foods, retail, hospitality, and educational businesses. It offers a win-win model, as franchisors do not have to directly spend to develop their business, whilst franchisees are given an introduction to the ready-made brand name and operation scheme.⁶

Franchising is a specific law in such jurisdictions as the United States, Australia or Malaysia where a special law provides the specifics of the disclosure, registration demands, and expectations regarding the relations of the franchisor and the franchisee. As an example, the Federal Trade Commission (FTC) in the U.S. imposes a binding franchise Franchise Disclosure Document (FDD) which the franchisors are supposed to give to their would-be franchisees prior to the signing of an agreement.⁷ Correspondingly, the Franchise Act 1998 of Malaysia plates registration of every franchise arrangement and specifies minimum disclosure drills and means of enforcement. The purpose of these regulatory systems is to enhance transparency, fair dealing and legal certainty, which are necessary in the prosperity of the franchise model.⁸

Franchising is a business practice that has taken root in Pakistan without guidance of a broad-based regulatory framework. It is not classified into a special class in the legal system in the

⁴ "Franchising in South Asia: Past, Present, and Future Developments: Journal of Marketing Channels: Vol 26, No 4," accessed July 21, 2025, <https://www.tandfonline.com/doi/abs/10.1080/1046669X.2020.1844840>.

⁵ Admin12, "Legal and Regulatory Considerations for International Firms in Pakistan," *Usman Rasheed & Co*, September 17, 2023, <https://urcapk.com/business-setup-growth/international-firms-in-pakistan-legal-regulatory-insights/>.

⁶ Philip Mark Abell, "The Regulation of Franchising in the European Union" (Thesis, 2011), <https://qmro.qmul.ac.uk/xmlui/handle/123456789/2326>.

⁷ Jan S. Gilbert and Suzie Loonam, "FTC Releases Franchise Rule Compliance Guide," *Franchise Law Journal* 28 (2009 2008): 20.

⁸ "Articles-201503," n.d.

country, but it is taken as the ordinary contractual relationship under the Contract Act 1872. Although this Act offers the fundamental elements of the formation of agreements, their execution, and remedies in breach, it fails to consider the peculiarities of franchising like the possession of proprietary methods of business, control over the brand, and extended monitoring of licensing.⁹

The franchising business has nevertheless grown by a large margin in the commercial sphere of Pakistan and especially in the largest cities of Lahore, Karachi and Islamabad. McDonald 39s, Subway and Domino 39s: International brands engaged in franchising During the course of the expansion of the businesses in these foreign countries, highly established brands such as McDonald 39s, Subway and Domino 39s are using franchising models to ensure that their business are being promoted in the foreign countries.¹⁰ Nevertheless, given this development, the lack of regulation specific to franchising remains a threat to both franchisors and the franchisees, particularly in the areas of dispute resolution, protection of IP, and treatment of taxation, the topics that are going to be explored in further sections.

Legal Framework Governing Franchising in Pakistan

The use of franchising in Pakistan is surrounded by a quilt of general laws relating to commerce, which although appealing to the spirit of the law does not reflect the realities and intricacies of franchise relationships. Pakistan does not have an independent franchising law or regulatory body. Rather, the application of the laws relevant to franchise agreements, to govern the relationship, include contractual law, intellectual property law, tax law and competition law, each of which governs various elements of the relationship.¹¹

he very foundation of it is the Contract Act 1872 that gives basic principles of making a contract, giving an execution and measures to be taken in the event of a breach. However, this Act does not appreciate the peculiarities of franchising, like an exclusive territorial right, a brand control, or a long-term work commitment.¹² Also, franchisors are not required by law to disclose anything, an essential ingredient in most progressive franchising jurisdictions that guarantee that the level of transparency must be present and decisions are well-informed.

Intellectual property rights are essential in franchising because it uses brand image, trademarks and secret knowledge. In Pakistan protection of IP is found in the Intellectual Property Organization Act 2012 which allows franchisors to register to enforce IP rights with reference to trademarks and business processes. Nevertheless, the means of enforcement are inefficient, in particular, where the company is subjected to counterfeiting or unauthorized use of its brand assets.¹³ The franchisors are frequently confronted with the issue of monitoring the satisfactory

⁹ "Franchising in Pakistan | International Bar Association," accessed July 21, 2025, <https://www.ibanet.org/franchising-in-Pakistan>.

¹⁰ 5, "Pakistan - Franchising," January 12, 2024, <https://www.trade.gov/country-commercial-guides/pakistan-franchising>.

¹¹ Josh and Mak International, Articles, February 2, 2025, <https://joshandmakinternational.com/>, <https://joshandmakinternational.com/franchise-agreements-in-pakistan-strategic-legal-advice/>.

¹² A. R. Kemal, "Regulatory Framework in Pakistan," *The Pakistan Development Review* 41, no. 4 (2002): 319–32.

¹³ "IPO Pakistan," accessed July 21, 2025, <https://www.ipo.gov.pk/>.

protection of their trademarks and their trade secrets in various jurisdictions especially when they are concerned with the sub-franchisors or local operators.

The issue of taxation compounds it further. Withholding taxes have been imposed on the franchise fee that is paid to foreigners by Federal Board of Revenue (FBR), which highlights a requirement of being unequivocal about the tax regime of the franchise payment. This confusion influences the format of cross border franchise arrangement and also presents a barrier to potential foreign franchisors to make entry into Pakistani market.¹⁴ Besides, inconsistent interpretation of regulations may arise due to the failure to harmonize royalty, licensing cost, and revenue-sharing provision under taxation legislation.

Another relevant law is the Competition Act 2010 which is governed by the Competition Commission of Pakistan (CCP). It outlaws anti-competitive arrangements as well as abuse of dominant position which could be adopted in situations when the franchise arrangements give franchisees restrictive terms. The CCP has however not issued any particular guidelines regarding franchising creating certain amount of legal gap that has led to uncertainties.¹⁵

Overall, current legal model in Pakistan gives such incomplete and indirect coverage of franchising activities. Lack of a single law exposes the franchisors and franchisees to non-concentrated interpretation, lax enforcement, and remedial action. It is this situation that justifies the necessity of the reform in the commercial context of franchising in the country.

Key Legal Challenges in the Franchising Sector

The high growth of franchising in Pakistan has raised a lot of legal issues that Greece the decisions of the franchisors each as well as the franchisee. These issues are influenced by the lack of legal framework regarding franchises which results in the lack of coherent regulations and predictability of the court verdicts. This part identifies the top legal concerns such as poor disclosure conditions, lack of proper enforcement system, unclear intellectual property protection as well as unfavorable dispute resolution system.¹⁶

Lack of Pre-Contractual Disclosure Obligations

Another major tenet of the international franchise law is the need to tell certain facts to prospective franchisees prior to the signing of the agreement by the franchisor. This involves money making and success, legal records, expenses and rights. Pakistan does not have any legal requirement to reveal this kind of information and this puts franchisees in a position of unequal bargaining power and false claims.¹⁷ Lack of fixed disclosure standards means the franchisee is not enabled to carry out a proper due diligence exercise, further compromising the risk of litigation and business failure.

¹⁴ "FBR Orders and Circulars - Federal Board Of Revenue Government Of Pakistan," accessed July 21, 2025, <https://fbr.gov.pk/Orders/Income-Tax-Circulars/231>.

¹⁵ "Competition Commission of Pakistan," accessed July 21, 2025, <https://www.cc.gov.pk/>.

¹⁶ "The Convenience of Subservience: Women and the State of Pakistan | SpringerLink," accessed July 21, 2025, https://link.springer.com/chapter/10.1007/978-1-349-21178-4_4.

¹⁷ "Franchising in South Asia: Past, Present, and Future Developments: Journal of Marketing Channels: Vol 26, No 4," accessed July 21, 2025, <https://www.tandfonline.com/doi/abs/10.1080/1046669X.2020.1844840>.

Ambiguities in Intellectual Property and Licensing

Despite the fact that trademarks and patents are registered according to the control of the Intellectual Property Organization of Pakistan, the issue of the IP rights enforcement in franchising is a problem. Cases of unlawful sub-franchising, brand dilution and abuse of proprietary systems are normal. Most franchise contracts do not have specific items covering the extent and length of IP permissions, right to termination of agreements, and the post-termination restrainers and bring about ambiguity in law.¹⁸ The lack of franchise-specific IP protection might discourage foreign brands to enter into Pakistani market, as they feel that their IPs are not sufficiently secure.

Enforcement and Dispute Resolution Deficiencies

Deficiency of effective enforcement systems and acceptable dispute resolution platforms is another significant legal impediment. The majority of the franchise contracts in Pakistan have arbitration clauses, although the system of arbitration is not developed and rather costly especially in situations when experienced arbitrators are required to tackle the complicated issues of franchising.¹⁹ Moreover the judicial system of Pakistan exhibits great inconsistency when handling commercial contracts particularly those dealing with multi-national parties which deter trust in legal action.

Taxation and Regulatory Ambiguity

Franchise fees administrative fees, promotional funds, royalties and other types of fees are not treated fairly in the taxation system of Pakistan. Whereas the FBR has come up with certain circulars on withholding taxes that should be applied to foreign franchisors, still there is no single shaper on the tax structure of franchising with domestic franchises. Such uncertainties bring about complications of compliance and make it expensive to conduct business by both local and foreign partners.²⁰

Combined, these difficulties point to the fact that the legal environment of franchising in Pakistan is not only poor but also reactionary, as opposed to proactive. There is a gap in regulation, and businesses have been permitted only to depend on the informal agreements and international legal models that are not necessarily congruent with national norms and feasibility to provide enforcement in the local image.

Comparative Legal Perspectives: Lessons from Other Jurisdictions

In order to appreciate the short comings of the legal environment of franchising in Pakistan it is helpful to examine how the regulation of franchise relationships has been treated in other jurisdictions. Examples of a comprehensive and franchise-specific laws that facilitate transparency, both in terms of uniformity and to the investor are provided by countries such as the United States, Malaysia, and the United Arab Emirates (UAE). These international

¹⁸ "IPO Pakistan."

¹⁹ "Challenges to Commercial Arbitration of Pakistan: Judicial Intervention and Bad Faith of Parties | The Critical Review of Social Sciences Studies," accessed July 21, 2025, <http://thecrsss.com/index.php/Journal/article/view/384>.

²⁰ "FBR Orders and Circulars - Federal Board Of Revenue Government Of Pakistan," accessed July 21, 2025, <https://fbr.gov.pk/Orders/Income-Tax-Circulars/231>.

frameworks may also be helpful in providing the Pakistani lawmakers with the appropriate initiatives with regard to forming a strong legal regimen that is appropriate to the local business climate.²¹

United States: A Model of Disclosure-Based Regulation

The US has also been viewed as one of the international exemplars to franchising regulation. The Federal Trade Commission (FTC) has a Franchise Rule group that makes it shelter that franchisors ought to submit a Franchise Disclosure Document (FDD) to the would-be franchisees not less than 14 days prior to the signing of any type of agreement. The litigation, trademarks, financial performance of the franchisor, fees, and business history of franchisor along with both the parties' obligations are there in this document by providing a lot of details.²² The approach by FTC is characterized by a high level of pre-contractual transparency as well as the consent, which is supported by rigorous enforcement means.

Malaysia: Mandatory Registration and Regulatory Oversight

The Franchise Act 1998 of Malaysia is an example of centralization of regulation. This legislation mandates franchisors to put all franchise contracts into the Registrar of franchises and provides legal criteria on the disclosure, advertising and dispute resolutions. Franchisors have the duty to reveal full details to the franchisees and the foreign franchisors require the government authorization to operate in Malaysia.²³ Notably, this legislation also involves punishment in case of non-conformance thereby making franchising a transparent and enforceable business venture.

United Arab Emirates: Integration with Commercial Agencies Law

The UAE has recently modified its franchising system by amending its Commercial Agencies Law and now franchising is considered a regulated commercial transaction. The legislation offers exclusive distribution rights, immunity against unilateral cancelation of agreement and arbitration provided by the UAE Commercial Agencies Committee.²⁴ Also, UAE government design of franchising includes popularization on the basis of public-private relationships and facilitation of licenses, which keeps local business interests covered and makes the most of foreign investors.

Such jurisdictions exhibit successful application of clarity in laws and support of institutions in enhancing sustainable franchising sectors. Though every legal framework is a result of its socio-economic and legal environment, there are some general components that are essential to

²¹ "(PDF) Franchising as a Tool for Small and Medium Business Development," *ResearchGate*, n.d., <https://doi.org/10.5901/mjss.2015.v6n5p429>.

²² "Ten Key Regulatory Challenges of 2025: Mid-Year," accessed July 21, 2025, https://kpmg.com/us/en/articles/2025/ten-key-regulatory-challenges-of-2025-mid-year.html?utm_source=google&utm_medium=cpc&utm_campaign=701dV00000CJrcnQAD&cid=701dV00000CJrcnQAD&gclid=aw.ds&gad_source=1&gad_campaignid=22766803082&gbraid=0AAAAADq0WlqpWHHDj8QhmM2YtiRctorg6&gclid=Cj0KCQjwyvFDBhDYARIsAltzbZFP7WQ3B-qt1ldz_zn-nY3jbvVRr9JYJtmuokb_wlz-g4Y59g-cWwaAhH6EALw_wcB.

²³ "Franchising in Malaysia: What You Need to Know - Lexology," accessed July 21, 2025, <https://www.lexology.com/library/detail.aspx?g=1798b730-b0d5-496d-8df1-626f7207207c>.

²⁴ Melissa Murray et al., "Franchising in the United Arab Emirates," *Franchise Law Journal* 41, no. 1 (2021): 89–102.

guarantee a harmonious and equitable franchising system such as mandatory disclosure, registration, method of enforcement and systems of resolution of disputes.²⁵ In the case of Pakistan, the implementation of like-minded legal tools would not only increase the certainty of contracts, but also the confidence of the international community in the local franchising business.

Policy Gaps and Regulatory Reform Needs

Lack of a specific franchising legislation has created a patchwork of patchy regulation in Pakistan. Such a lapse in the legal framework does not only weaken the rights and requirements of franchisors/ franchisees but also affects the growth prospects of the industry adversely. Although the current legislations provide some sort of guidance, they do not reflect the specific commercial nature of franchising. This part points out the main inadequacies of policies and institutions and suggests specific reforms to develop a logical system of law towards a clear picture of franchising in Pakistan.²⁶

Absence of a Franchising-Specific Legal Regime

It is also worth noting that there is no franchising statute perhaps the most important gap. Pakistani still maintains a check and balance in franchising through general commercial laws which are ill-organized to handle matters such as disclosure, territorial exclusivity, renewal-related conditions, termination provisions and so on.²⁷ These split legal provisions might be unified with a law that would apply universally to the industry by a law that is tailored around franchising. The law must also stipulate the nature of relationships between the franchisees clearly, require disclosure document, register the agreement entered, and institute penalties of non-conformity to such provisions similarly to those of Malaysia and the U.A.E.

Lack of Regulatory Oversight Authority

Today there is no single body that regulates or licenses activities in franchising. Such institutional vacuum brings about a sense of insecurity especially to foreign franchisors interested to enter the market. Creation of a Franchise Regulatory Authority under the Ministry of Commerce may also make regulations centralized and allow registration to be done, and they can give compliance instructions and settle minor disputes.²⁸ That would relieve courts of administrative pressure, and simplify the ability to settle various disputes, especially including fee structures, territory violations, or unauthorized sub-franchising. Poor Support to Franchisees.

Weak Support for Franchisees

In Pakistan, majority of franchisees are small or mid-size business owners without any legal knowledge and bargaining power. Without legal requirements of disclosure, most of them are engaging in disadvantageous agreements that they do not understand fully. Awareness programs

²⁵ Josh and Mak International, Articles, February 2, 2025, <https://joshandmakinternational.com/>, <https://joshandmakinternational.com/franchise-agreements-in-pakistan-strategic-legal-advice/>.

²⁶ "Franchising in Pakistan," accessed July 21, 2025, <https://www.ibanet.org/franchising-in-Pakistan>.

²⁷ Abdul Razzaq Kemal, "Regulatory Framework in Pakistan," *The Pakistan Development Review* 41, no. 4 (2002): 319–32.

²⁸ "Ministry of Commerce | Government of Pakistan," Ministry of Commerce | Government of Pakistan, accessed July 21, 2025, <https://www.commerce.gov.pk/>.

sponsored by the government, uniform formats of disclosures and legal assistance tools would be able to empower franchisees and make them more involved in fair relations within the contractual nature of relationships.²⁹ Also, the consumer protection agencies might be tasked to oversee the performance and grievances on franchised services.

Regulatory Uncertainty in Cross-Border Franchising

The following issues may cause specific problems to cross-border franchising agreements: uncertainty in tax treatment, uneven foreign exchange controls and obscurity of foreign arbitral awards enforcement. This should be synchronized between the State Bank of Pakistan and the Federal Board of Revenue to determine clarity on tax obligation, foreign remittance and documentation of international franchisors.³⁰ Such steps would facilitate market penetration and improve the image of Pakistan as a safe place to invest into global franchise.

The solution to this issue of policy gaps implies a complete reform of the legislative and institutional framework through a well-thought legislation process to provide Pakistan with the business-friendly environment and thereby promote sustainable development of franchising. Such reforms would safeguard all stakeholders, lower the legal risk and ensure that the commercial practice of Pakistan matches the international standards.

Conclusion

Franchising has a phenomenal potential in terms of Pakistan business sector, this franchising is a profitable business development strategy that is scalable in terms of business growth, entrepreneurship and as a foreign investment. The lack of specific legal framework however has significantly compromised the growth of the sector as it subjects the stakeholders into legal vagaries, poor implementation and inefficient regulations. The existing legislations, including Contract Act, IP regulations, and the competition law only provide a partial and indirect control that do not reflect the fundamental contractual, disclosure and operation dynamics of franchising.

The main issues noted in this paper are absence of pre-contractual duties of disclosure, ambivalent intellectual property protection, poor dispute settlement frameworks and mixed taxation regimes. Such barriers deck the progress of not only local franchisors but also deters well-reputed foreign brands to venture into the Pakistani market and eventually curtail consumer choice and innovation in the economy.

The comparative experiences of such jurisdictions as the United States, Malaysia and the UAE evidences that special legal and institutional frameworks can be created to ensure growth of franchises and preservation of interests of both franchisors and franchisees. Pakistan, as well, needs to overcome its impractical legal system to allow a unified franchising legislation that establishes the relationships between franchisor and franchisee, enforces the terms of disclosure, and which registers, and implement effective regulations.

²⁹ "Franchising in Pakistan," accessed July 21, 2025,

<https://www.dentons.com/en/insights/articles/2023/december/15/franchising-in-pakistan>.

³⁰ "FBR Orders and Circulars - Federal Board Of Revenue Government Of Pakistan," accessed July 21, 2025,

<https://fbr.gov.pk/Orders/Income-Tax-Circulars/231>.

Such reform ought to be affirmed by a special regulatory body and be in accordance with the wider commercial policies so as to watch consistency, and legal certainty. An effective franchising environment will also be strengthened by enhancing legal awareness and standardizing dispute settlement mechanisms, as well as by elaborating cross border taxation principles, in favor of the franchisees.

When it comes to incorporating Pakistan into the world commercial system and releasing its potential as an entrepreneurial nation, the reform of franchising is not a luxury, it is a need.

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