
CHAMBERS GLOBAL PRACTICE GUIDES

Franchising 2025

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Philippines: Law and Practice & Trends and Developments

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PHILIPPINES



Law and Practice

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Cruz Marcelo & Tenefrancia is a top-tier full-service law firm with a strong track record of providing exceptional legal services across various industries. With recognised expertise in intellectual property (IP), among other areas, the firm advises both local and foreign clients throughout the entire IP life cycle, from creation to protection, enforcement and commercialisation, to ensure that maximum value is derived. Cruz Marcelo & Tenefrancia provides comprehensive legal

and business-oriented advice to clients to promote innovation and address the complexities of all types of IP commercialisation agreements, including, but not limited to, licensing and franchising agreements. The lawyers are attuned to the business objectives of their clients, tailoring their advice and strategies to maximise the value of IP towards sustainable business growth.

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1. An Introduction to Franchising

1.1 Franchise Market Overview

With over 1,800 franchise brands and 120,000 franchise outlets, the Philippines has solidified its position as the largest franchising market in Southeast Asia and the seventh largest worldwide. Projected to be the “Golden Age of Franchising”, the Philippines’ franchising industry is expected by the Philippine Franchise Association (PFA) to achieve revenue growth of up to 10% in 2025 notwithstanding challenging market uncertainties, where industry-wide earnings are estimated to surge to PHP800 billion from a PHP538 billion valuation in 2022.

The remarkable growth trajectory in the franchising industry is largely driven by the food sector, which accounts for the majority (60%) of the franchise opportunities nationwide, although the services sector is one of the fastest-growing segments.

According to the International Trade Association (ITA), the market is predominantly composed of American brands, but there is a growing preference for Japanese, Korean, Chinese and European options among the younger generation. The ITA emphasised that entry of new American brands in the market may be stifled by high market saturation and stiff competition, and it is important to identify a qualified local partner to establish a footprint in the Philippines.

At present, there are several local firms with experience in franchises that tend to dominate the American brands, including the Max’s group (handling Krispy

Kreme and Jamba Juice), Jollibee Foods Corporation (handling Burger King, Panda Express and CBTL) and the Bistro Group (handling Buffalo Wild Wings, Denny’s, Texas Roadhouse, Italianni’s and Fridays, among others).

In 2024, the PFA hosted its annual Franchise Excellence Awards, which recognises franchises that have become benchmarks in franchise operations in the Philippines. The awardees include Shakey’s, Mang Inasal, Potato Corner and Famous Belgian Waffles, which have been inducted into its Hall of Fame. Other notable awardees are 7-Eleven, Greenwich, Toby’s Sports, Chowking, Chatime, Grainsmart, Master Sio-mai and But First, Coffee.

Outside of the PFA’s list of awardees, the Philippines has a dynamic franchising market consisting of both domestic and international brands. According to the Philippine Department of Trade and Industry (DTI), there is a growing demand for Filipino franchises internationally. At the Franchising Expo held in Sydney in May 2025, Philippine homegrown franchise brands generated USD33.45 million in actual and potential export sales. Participating brands included Bench, Jollibee, Max’s Restaurant, Miguelito’s Ice Cream and Shawarma Shack, among others. International franchisors, which include McDonald’s, Dunkin’, KFC and Starbucks, likewise have a strong presence in the Philippine market.

The Philippine franchising industry is projected to sustain its robust growth over the years with continuing support from public and private sectors. For instance,

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the DTI, recognising the sector's impact on economic growth, will provide financial support in the form of loans ranging from PHP200 million to PHP500 million, with 0% interest and no principal payments required for the first six months for aspiring franchisees joining the PFA. The PFA has also partnered with PLDT Enterprise to equip franchises with digital tools to enhance their business operations, including next-generation connectivity, cloud solutions, AI-powered insights and robust cybersecurity.

1.2 Franchise Regulation

The Philippines does not have a single comprehensive law that regulates franchising. Instead, franchising is governed by a combination of general laws and presidential issuances or orders.

The current regulatory framework on franchising primarily includes the Civil Code of the Philippines (the "Civil Code") and the Intellectual Property Code of the Philippines (the "IP Code"). Other notable laws include:

- Executive Order (EO) No 169 (series of 2022), which aims to strengthen micro, small and medium enterprises (MSMEs) in the franchising industry;
- the Philippine Competition Act (the "Competition Act"), which codifies the competition policy of the Philippines;
- the Consumer Act of the Philippines, which applies to certain aspects of franchising related to product quality, labelling and advertising for consumer protection;
- the Revised Corporation Code, which is the primary law applying to corporations with respect to establishing and structuring a franchising entity;
- the Labor Code of the Philippines, which governs the labour standards and relations of franchise personnel;
- the National Internal Revenue Code (the "Tax Code"), which provides for tax rates and the procedure for tax registration and compliance;
- the Local Government Code, which provides for the substantive requirements, such as permits and fees, which businesses must comply with in the localities where they intend to operate; and

- the Data Privacy Act of 2012, which regulates the processing of personal information for the protection of the right to privacy.

Since franchise agreements are contracts, they must comply with the provisions of the Civil Code, which governs general contract law principles – particularly consent, capacity, object, cause and formalities, among others.

While the Civil Code grants the parties contractual autonomy to stipulate any clause in their franchise agreements, the clauses must not be contrary to law, morals, good customs, public order or public policy. Thus, the agreements must be consistent with the rights vested under the IP Code, which covers the law on trade marks, trade names, copyright, patents and other IP rights that are crucial to a franchise.

Further, since a franchise agreement falls under the definition of a technology transfer arrangement (TTA) under Section 4.2 of the IP Code, it must comply with the provisions on voluntary licensing, particularly the prohibited and mandatory clauses under Sections 87 and 88 of the IP Code.

TTAs are defined as "contracts or agreements, involving the transfer of systematic knowledge for the manufacture of a product, the application of a process, or rendering of a service including management contracts; and the transfer, assignment or licensing of all forms of intellectual property rights, including licensing of computer software except computer software developed for mass market".

Despite the foregoing definition, not all contracts involving the licensing of IP rights will be considered a TTA. Rule 1 (n) of IPO Memorandum Circular 2020-002 further qualifies the definition of a TTA: "The transfer, assignment or licensing of intellectual property rights will be considered a [TTA] only if it involves the transfer of systematic knowledge".

The term "systematic knowledge" is not specifically defined under local regulation or jurisprudence. Thus, it remains subject to interpretation. However, the World Intellectual Property Organization has stated that technology licensing is not necessarily synony-

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mous with technology transfer as the latter requires an actual transfer of technology and knowledge by the licensor to the licensee, who learns how to effectively use, adapt and improve such technology and knowledge. In view of the foregoing, franchise agreements are considered TTAs as they involve the transfer of systematic knowledge. Thus, the agreement must not contain the prohibited clauses under Section 87 of the IP Code and must comply with the mandatory clauses under Section 88 of the IP Code.

Additionally, EO No 169 likewise sets the minimum terms and conditions for franchise agreements for MSME franchisees. In this regard, said EO provides that the franchisor has an obligation to execute an undertaking that all future franchise agreements with MSME franchisees shall incorporate the minimum terms and conditions prescribed thereunder, which shall be registered under the Franchise Registry to be created under the DTI.

In all cases, franchise agreements must comply with the Competition Act, which prohibits entities from abusing their dominant position by engaging in conduct that would substantially prevent, restrict or lessen competition.

While the franchising industry is subject to the regulatory power of various government agencies, it also self-polices its own ranks through franchise associations, such as the PFA. The PFA is a voluntary self-regulating governing body for franchising in the Philippines that introduced, in 2005, the Fair Franchising Standards – a code of franchising ethics applying a fair set of provisions in the conduct of sale of their franchises that PFA members commit themselves to respecting. Notably, however, the PFA is a private association that is not connected with the government, and membership thereof – or of any franchise association for that matter – is purely voluntary.

1.3 Definition of a Franchise Agreement

EO No 169 defines a “franchise” as “a contract or agreement between a franchisor and a franchisee where: (i) the franchisor grants to the franchisee the right to operate a business according to the franchise system and during a term as determined by the franchisor; (ii) the franchisor grants the franchisee the right

to use a mark, or a trade secret, or any confidential information or intellectual property owned by the franchisor or relating to the franchisor; (iii) the franchisor possesses the right to control the administration over the franchisee’s business operation during the franchise in accordance with the franchise system; and (iv) in return for the grant of the above rights, the franchisee is required to pay a fee or other form of consideration”.

It further defines a “franchise agreement” as “a written contract or agreement between a franchisor and a franchisee by which the former grants the latter the right to engage in the business of offering, selling or distributing goods or services under a marketing system, technology transfer arrangements included, for a certain consideration. Unless otherwise provided, said right includes the use of a trademark, service mark, trade name/business name, know-how, logo-type advertising or other commercial symbols associated with a particular business”.

On the other hand, DTI Bureau Order No 10-24, or the Advisory on Due Diligence to be Undertaken by a Prospective Franchisee, defines a “franchise agreement” as “a written contract or agreement between two or more parties by which a Franchisor grants the Franchisee right to engage in the business of offering, selling, or distributing goods or services under a marketing plan/system/concept, for a certain consideration. Unless otherwise provided, said right includes the use of a trademark, service mark, trade name/business name, know-how, logo-type advertising, or other commercial symbols associated with a particular business”.

2. Franchise Disclosure

2.1 Mandatory Disclosure

DTI Bureau Order No 10-24 recommends that prospective franchisees obtain what it refers to as “Disclosure Information” from the franchisor as part of the due diligence process prior to entering into or acquiring a franchise. Franchisors should provide the following Disclosure Information when requested by a prospective franchisee:

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- business address, email address, internet home page/website, fax numbers and other contact details;
- copy of DTI or Philippine Securities and Exchange Commission (SEC) registration numbers;
- parent companies and affiliates, if any, and their respective roles in the franchise – and the franchisor's declaration if an affiliate is a supplier, including what they will supply;
- names of the board of directors and officers, with a brief description of their qualifications and background, ownership of interests and references;
- contact number and business location of existing franchisees;
- executed promotional/marketing materials;
- description of the business concept, which includes the brand image, brand personality, unique selling proposition, target market, mission and vision, among other things;
- basic information on training, commercial and/or technical assistance;
- certificate showing that the franchisor is a member in good standing of any franchisor association and that the franchisor has no pending administrative, civil or criminal case;
- declaration of the initial fee – the amount that will be collected and the services covered by the fee;
- training that will be provided – the number of persons, length of the training period and training modules;
- number of years that the company has operated, and the number of years it has franchised, with the corresponding numbers of company-owned branches and franchised branches;
- draft franchise agreement;
- full disclosure of the financial requirements of the franchise business;
- a provision that requires the franchise applicant to seek adequate legal and financial counsel before signing the franchise agreement; and
- mechanisms for dispute resolution.

It is important to note that this issuance serves only as a recommendation and does not create any legal obligation for the franchisor to provide such Disclosure Information. Moreover, it does not specify any required method or format for disclosing the information to the interested franchisee.

2.2 Consequences of a Failure to Disclose

Since there is no legal obligation to provide Disclosure Information, the law does not expressly provide for remedies resulting from the franchisor's failure to disclose. Nevertheless, if the consent of the franchisee in entering the franchise agreement is vitiated by mistake, violence, intimidation, undue influence or fraud, the franchisee may have the franchise contract annulled (Article 1390, Civil Code) even if there is a disclaimer in the franchise agreement. However, if the franchisee has been made aware of facts and circumstances that require the conduct of further due diligence, it may be construed as implied acquiescence or consent.

The Competition Act also grants the parties to franchising agreements the right to unilaterally terminate the agreement. Additionally, the franchisee may also seek recovery of damages in case there is fraud on the part of the franchisor in carrying out its obligations under the franchise agreement (Article 1170, Civil Code).

2.3 Franchise Disclosure Exemptions

There is no franchise disclosure obligation in the Philippines. Thus, the franchisor is essentially exempted from any request for disclosure from the franchisee.

2.4 Franchise Disclosure Language/ Translation Requirements

There is no legal requirement in the Philippines for the Disclosure Information to be written in the local language, but in practice, most commercial documents are in English. However, the document should be written or translated into English if it is to be submitted as evidence before the local courts (Rule 132, Section 33, Revised Rules of Evidence).

3. Franchise Registration

3.1 Mandatory Registration

There is no standalone law governing franchise registration in the Philippines. Nevertheless, franchisors and franchisees that are juridical entities must be duly registered in their country of origin to have the legal capacity to enter into franchise agreements. In the Philippines, domestic corporations must be regis-

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tered with the SEC and comply with post-registration requirements, such as registration of the taxpayer with the Bureau of Internal Revenue and securing a business permit with the city or municipality where the corporation conducts its business. Other than the foregoing, there are no specific registration requirements for franchisors and franchisees.

As for franchise agreements, which are considered as TTAs, they generally do not need to be registered with the Documentation, Information and Technology Transfer Bureau (DITTB) of the IPOPHL if they comply with the requirements of Sections 87 and 88 of the IP Code on prohibited and mandatory clauses, respectively.

Non-compliance with any of the provisions of Sections 87 and 88 of the IP Code shall automatically render the franchise agreement unenforceable, unless an application for exemption has been filed with the DITTB and subsequently granted, and the franchise agreement is approved and registered with the DITTB. Section 91 of the IP Code provides that the parties may seek exemption from the application of Sections 87 and 88 by filing a request with the DITTB. Such exemption may be granted only in exceptional and meritorious cases where the arrangement will bring substantial benefits to the economy, such as high technology content, increase in foreign exchange earnings, employment creation, regional dispersal of industries and/or substitution with or use of local raw materials – or in the case of Board of Investments, registered companies with pioneer status.

In cases where there are multiple franchise agreements, the IPOPHL requires that a separate request for registration and exemption should be made if the parties involved are different. Thus, in the case of a franchisor with multiple franchisees, each franchise agreement with a different franchisee must be registered with the necessary exemption for it to be valid and enforceable.

If the franchise agreement involves the licensing of trade marks, it must likewise be recorded with the Bureau of Trademarks (BOT) to be valid against third parties. Moreover, under Section 150 of the IP Code, the franchise agreement must provide for the effective

control by the franchisor of the quality of the goods or services of the franchisee in connection with which the mark is used. In the absence of such provision, or if such quality control is not effectively carried out, the franchise agreement shall not be valid. To record the trade mark licence agreement with the BOT, the DITTB must first issue a Certificate of Compliance certifying that the trade mark licence agreement is cleared for recordal with the BOT.

In cases where the franchisee is an MSME, the franchise agreement must comply with the minimum terms and conditions set forth under Section 2 of EO No 192 and be registered with the DTI. EO No 192 further requires the franchisor to take responsibility for registering the franchise agreement with the DTI, and to submit an undertaking that all future agreements with MSME franchisees will likewise include the prescribed minimum terms and conditions.

3.2 Franchise Registration Process

The IPOPHL follows the same procedure for filing requests for the registration and recordal of franchise agreements. However, the parties must specify the subject of their request since the IPOPHL issues separate certificates for different purposes. In particular, there are three certificates issued by the IPOPHL in relation to franchise agreements.

- First, for the registration of franchise agreements with the DITTB, the parties should request a Certificate of Registration, which is issued when a TTA has been granted certain exemptions from the application of Sections 87 and 88 of the IP Code. The Certificate of Registration is a mandatory requirement for a TTA that does not comply with the IP Code to be enforceable.
- Second, the parties may request a Certificate of Compliance, which certifies that a TTA does not contain any of the prohibited clauses under Section 87 of the IP Code and conforms to all the mandatory provisions under Section 88 of the IP Code. In such instance, since the TTA complies with the IP Code, the parties are not required to register the TTA with the DITTB. However, the parties may voluntarily request a Certificate of Compliance for the purposes of ensuring that the contract is enforceable, and particularly that the parties may enforce

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the contract's terms between themselves and against third parties in case there is any breach of such contract.

- Third, for the recordal of franchise agreements with the BOT, parties should request a Certificate of Clearance, which certifies that a franchise agreement that contains trade mark licensing provisions has been cleared for recordal with the BOT. Under Section 150 of the IP Code, a trade mark licensing agreement, which is necessarily incorporated in franchise agreements, shall have no effect against third parties until such recordal is effected. Thus, the recordal is required for the agreement to be valid and binding with respect to third persons. Nevertheless, even prior to recordal, the trade mark licence agreement is valid and effective between the contracting parties.

In any case, the request should be filed together with:

- the original franchise agreement, which should be notarised (if executed in the Philippines) or apostilled (if executed abroad);
- a notarised application form, including a verified statement that the agreement is not subject to any judicial, administrative or other proceedings;
- a list of all IP rights (trade marks, copyrights and patents) covered by the agreement; and
- payment of fees.

Upon filing the request, the DITTB is mandated to decide on the same within 20 working days from the filing date. Should the DITTB issue a favourable decision, it shall issue the appropriate certificate/s within seven days from receipt of the duly executed and notarised agreement and payment of the required fees.

Should any provision of the agreement violate any of the provisions under the IP Code, the DITTB shall issue a Notice of Findings and a Notice to Comply, which shall inform the parties of any violation and require them to respond and comply with the orders contained therein. Upon the parties' satisfactory response to the findings of the DITTB and their subsequent compliance, the DITTB shall issue the appropriate certificate/s within seven days from receipt of the

duly executed and notarised agreement and payment of the required fees.

3.3 Consequences of a Failure to Register

As a general rule, franchise agreements, which are considered as TTAs, do not need to be registered with the DITTB if they comply with the requirements of Sections 87 and 88 of the IP Code on prohibited and mandatory clauses, respectively. Thus, if the franchise agreement complies with Sections 87 and 88 of the IP Code, there will be no consequences of non-registration of the franchise agreement. On the other hand, if the franchise agreement does not comply with Sections 87 and 88 of the IP Code, it shall be deemed unenforceable, unless an application for exemption has been filed with the DITTB and subsequently granted, and the franchise agreement is approved and registered with the DITTB.

Unenforceability, in this context, has been interpreted to mean that neither party will be allowed to have any legal recourse against the other in court in case of breach of contract. The Civil Code states that contracts deemed "unenforceable" are considered valid and binding as between the parties who entered into them. However, in case there is a breach of such contract, neither party can go to court to enforce the contract's terms. Further, the Civil Code provides that an unenforceable contract is valid between the contracting parties but may not be invoked against third persons.

4. Other Requirements

4.1 Past-Profitability Requirements

Aside from the legal capacity to enter into franchise agreements discussed in 3.1 **Mandatory Registration**, there are no other requirements that must be met before a company can enter into a franchise agreement. Thus, Philippine law does not require a franchisor to demonstrate that the business has operated profitably for a period of time in a number of locations before allowing the franchise business to operate.

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5. Duration, Renewal and Termination

5.1 Duration of a Franchise Agreement

The duration of a franchise agreement is subject to the agreement of the parties. There is no statutory maximum or minimum duration under the law.

5.2 Franchise Renewal

Philippine law does not provide for any statutory renewal rights, compensation payable upon non-renewal or goodwill compensation payable under commercial agency laws. These terms are subject to the agreement of the parties.

5.3 Termination of the Franchise Agreement

The grounds for termination are subject to the agreement of the parties. Generally, agreements provide for termination on the ground of default, and the parties are free to stipulate what they deem events of default. The parties may also agree on the effects of such events of default, for instance by adopting an automatic termination clause. The Competition Act provides that franchising, licensing, exclusive merchandising and distributorship agreements that give each party the right to unilaterally terminate the agreement are permissible.

In case of insolvency, applying Section 57 of the Financial Rehabilitation and Insolvency Act of 2010, a licence cannot be unilaterally terminated on the ground of mere insolvency of the licensee or licensor and will remain valid and effective despite a subsequent declaration of the insolvency of either or both parties.

6. Restrictions on Competition in Franchise Agreements

6.1 Treatment of Competition Restrictions in Franchise Agreements

Section 15 of the Competition Act generally prohibits entities from abusing their dominant position by engaging in conduct that would substantially prevent, restrict or lessen competition. Particularly, the Competition Act prohibits the imposition of restrictions on the contract for sale of goods or services where the

object or effect of the restrictions is to prevent, restrict or lessen competition substantially.

Notably, the Competition Act must be read in conjunction with the IP Code, which prohibits clauses expressly enumerated under Section 87 and other clauses that similarly have anti-competitive effects. These clauses, which include anti-competitive clauses, stipulations in restraint of trade and purchase ties, are considered *prima facie* to have an adverse effect on competition and trade.

6.2 Exclusive Territories and Competing Businesses

Exclusive territories and similar clauses are generally permitted in franchise agreements in the Philippines, subject to the general limitations of contract law. Parties may freely establish such stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order or public policy.

Furthermore, such exclusivity clauses must not violate Philippine competition laws. The Competition Act prohibits anti-competitive agreements and specific restrictive contractual practices (such as price-fixing, market allocation and unfair trade restrictions) when these significantly prevent, restrict or lessen competition. However, it expressly permits “permissible franchising, licensing, exclusive merchandising, or exclusive distributorship agreements”, provided they do not result in a substantial anti-competitive effect.

On the other hand, in-term and post-term non-compete clauses are generally enforceable in the Philippines and are not necessarily void for constituting restraint of trade, provided there are reasonable limitations as to time, trade and place, which may be assessed on a case-to-case basis.

The IPOPHL has previously allowed non-compete clauses for a period limited to one year from the termination of the agreement. In *Blue Sky Holdings Limited v DITTB*, IPOPHL Appeal No 05-2012-0001 (30 April 2013), the IPOPHL ruled that a non-compete clause for a period of two years following the termination of the franchise agreement is a prohibited anti-competitive clause. Notably, however, the IPOPHL stated that,

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while a request for exemption may be granted by the DITTB on a case-to-case basis, the franchisor failed to provide evidence of substantial benefits that will accrue to the economy as a result of the agreement.

6.3 Requiring Franchisees to Purchase Specific Goods and Services

Section 87 of the IP Code prohibits clauses that require the licensee to source capital goods, intermediate products, raw materials or other technologies exclusively from a specified supplier, or to permanently employ personnel designated by the licensor.

6.4 Channel Reservation

The franchisor's reservation of its rights to use specific channels is allowed, as long as it does not result in substantial anti-competitive effects in the market. This aligns with the general principle of freedom to contract, also provided under Article 1306 of the Civil Code, which permits parties to agree on terms and conditions they consider appropriate provided these do not violate law, morals, good customs, public order or public policy.

6.5 Vertical Agreement Block Exemptions

Sections 87 and 88 of the IP Code provide the prohibited and mandatory provisions governing TTAs. Section 87, in particular, prohibits provisions that are considered *prima facie* to have an adverse effect on competition and trade.

However, Section 91 of the IP Code allows parties to apply for an exemption from the requirements of Sections 87 and 88 by submitting a request to the DITTB. This exemption may be granted only in exceptional and meritorious cases where the agreement is shown to provide significant benefits to the economy, such as high technology content, increase in foreign exchange earnings or employment creation, among other things.

7. Choice of Governing Law

7.1 Possibility of a Franchisor Stipulating Non-Local Law

Since the franchise agreement involves a TTA, Section 88.1 of the IP Code requires that Philippine law be its governing law. Should there be a stipulation to

the contrary, the franchise agreement will be deemed unenforceable.

7.2 Local Law Requirements

Since the franchise agreement falls under the definition of a TTA, it is mandatory for the agreement to provide that the laws of the Philippines shall govern the interpretation of the same, and, in the event of litigation, the venue shall be the proper court in the place where the licensee has its principal office. Otherwise, the TTA will be unenforceable in the Philippines.

7.3 Mandatory Content

As a general rule, parties are free to stipulate the terms and conditions of their franchise agreement. However, since the franchise agreement falls under the definition of a TTA, it must comply with the mandatory provisions under Section 88 of the IP Code.

Particularly, the following terms must be included in an agreement involving a TTA:

- the laws of the Philippines shall govern the interpretation of the same, and, in the event of litigation, the venue shall be the proper court in the place where the licensee has its principal office;
- continued access to improvements in techniques and processes related to the technology shall be made available during the period of the TTA;
- in the event the TTA shall provide for arbitration, the Procedure of Arbitration of the Arbitration Law of the Philippines, the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) or the Rules of Conciliation and Arbitration of the International Chamber of Commerce (ICC) shall apply, and the venue of arbitration shall be the Philippines or any neutral country; and
- the Philippine taxes on all payments relating to the TTA shall be borne by the licensor.

Nevertheless, under Section 91 of the IP Code, an exemption from the application of Section 88 of the IP Code may be allowed but only in exceptional and meritorious cases, as previously discussed. It must be noted, however, that the IPOPHL does not grant exceptions regarding the governing law. Thus, if the parties use the laws of their own jurisdiction as the

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governing law, they take the risk of the agreement's unenforceability in the Philippines.

Additionally, the law is deemed written into every contract. Thus, the law may supplement the gaps in a franchise agreement where the latter failed to provide clarity or adequate relief. For instance, the provisions under the Civil Code, including those on termination in case of material breach, are deemed impliedly written in all agreements, whether it involves a TTA or not. However, it may also serve as a restriction on the parties' contractual autonomy as the stipulations in the franchise agreement will yield to mandatory laws.

7.4 Prohibited Provisions in Local Law

Section 87 of the IP Code lists the following prohibited clauses that may not be contained in the franchise agreement, as they are deemed *prima facie* to have an adverse effect on competition and trade:

- those that impose upon the licensee the obligation to acquire from a specific source capital goods, intermediate products, raw materials and other technologies, or to permanently employ personnel indicated by the licensor;
- those pursuant to which the licensor reserves the right to fix the sale or resale prices of the products manufactured on the basis of the licence;
- those that contain restrictions regarding the volume and structure of production;
- those that prohibit the use of competitive technologies in a non-exclusive technology transfer agreement;
- those that establish a full or partial purchase option in favour of the licensor;
- those that obligate the licensee to transfer to the licensor, for free, inventions or improvements that may be obtained through the use of the licensed technology;
- those that require payment of royalties to the owners of patents for patents that are not used;
- those that prohibit the licensee from exporting the licensed product unless justified for the protection of the legitimate interest of the licensor, such as exports to countries where exclusive licences to manufacture and/or distribute the licensed product(s) have already been granted;
- those that restrict the use of the technology supplied after the expiration of the TTA, except in cases of early termination of the TTA for reason(s) attributable to the licensee;
- those that require payments for patents and other industrial property rights after their expiration;
- those that require the technology recipient to not contest the validity of any of the patents of the technology supplier;
- those that restrict research and development activities of the licensee designed to absorb and adapt the transferred technology to local conditions, or to initiate research and development programmes in connection with new products, processes or equipment;
- those that prevent the licensee from adapting the imported technology to local conditions or introducing innovation into it, as long as this does not impair the quality standards prescribed by the licensor;
- those that exempt the licensor for liability for non-fulfilment of their responsibilities under the TTA and/or liability arising from third-party suits brought about by the use of the licensed product or the licensed technology; and
- other clauses with equivalent effects.

Nevertheless, under Section 91 of the IP Code, an exemption from the application of Sections 87 and 88 of the IP Code may be allowed in exceptional and meritorious cases, as previously discussed.

Further, the Competition Act prohibits anti-competitive agreements and certain restrictive practices in contracts, such as price-fixing, market allocation and unfair restrictions on trade, if these substantially prevent, restrict or lessen competition. However, it explicitly allows “permissible franchising, licensing, exclusive merchandising or exclusive distributorship agreements”, unless these are found to have a substantial anti-competitive effect. Furthermore, the Competition Act allows franchise agreements to include provisions for unilateral termination, as well as protections for IP, confidential information and trade secrets, provided these do not have a substantial anti-competitive effect.

8. Dispute Resolution

8.1 Enforcement of Foreign Judgments

Under Rule 39, Section 48 of the Rules of Court, the effect of a judgment or final order of a tribunal of a foreign country having jurisdiction to render the judgment or final order is as follows:

- in case of a judgment or final order upon a specific thing, the judgment or final order is conclusive upon the title to the thing; and
- in case of a judgment or final order against a person, the judgment or final order is presumptive evidence of a right between the parties and their successors-in-interest by subsequent title.

Notably, the judgment or final order may be repelled by evidence of a want of jurisdiction, want of notice to the party, collusion, fraud or clear mistake of law or fact. The process therefor is straightforward. A party seeking the enforcement of a foreign judgment may file a Petition for Recognition of Foreign Judgment before the proper Regional Trial Court (RTC), where the foreign judgment must be proved as a matter of fact. Furthermore, the RTC will determine:

- whether the foreign judgment is contrary to an overriding public policy in the Philippines; and
- whether there exists an extrinsic ground to repel the foreign judgment (ie, want of jurisdiction, want of notice, collusion, fraud or clear mistake of law or fact).

Absent any of the foregoing, the court will enforce the judgment as if it was issued by a Philippine court.

The Philippines is a party to the New York Convention (the “Convention”) and thus adheres to its procedure for the recognition and enforcement of foreign arbitral awards, as affirmed by Section 42 of the Alternative Dispute Resolution Act of 2004, which provides that the Convention shall govern the recognition and enforcement of arbitral awards covered by said Convention. Philippine courts generally uphold the validity of arbitral awards, and there are very limited grounds to question such decision by the arbitral tribunal.

9. Payment and Taxes

9.1 Restrictions or Limits on Franchisee Fees and Royalties

Currently, there are no specific laws and regulations that impose restrictions on the payment of franchise fees, royalties or service fees. No set standards are provided under Philippine law and jurisprudence regarding a reasonable range or cap on the amount of franchise fees, royalties or service fees to be paid. In any event, the general rules on contract law apply, wherein parties may freely establish such stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order or public policy.

While there are no statutory or jurisprudential standards for the payment of franchise fees, royalties or service fees, there are industry standards for each sector that may serve as a benchmark for franchisors and franchisees in assessing the reasonableness of the rates.

9.2 Withholding Tax

The Tax Code imposes a final tax on royalties, with the applicable rate varying based on the classification of the taxpayer, whether an individual, a non-resident alien not engaged in trade or business in the Philippines, a domestic corporation or a non-resident foreign corporation.

Generally, royalties derived from sources within the Philippines that are paid to resident individuals or corporations are subject to a final tax at a rate of 20%, while royalties paid to non-residents are subject to a final tax at a rate of 25%, unless a tax treaty provides a lower rate.

Furthermore, the Tax Code imposes a value added tax (VAT) of 12% on gross receipts from the sale, barter, exchange or lease of goods or properties. If the licensor transfers or leases the right to use IP in the course of trade or business, they become liable for VAT. This VAT applies regardless of where the licence agreement is executed, as long as the IP is leased or used within the Philippines.

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Since the franchise agreement qualifies as a TTA, Section 88.4 of the IP Code mandates that all Philippine taxes related to the arrangement must be borne by the licensor.

9.3 Foreign Currency Controls

There are currently no laws or regulations that potentially hinder the payment of franchise fees in foreign currency. Generally, monetary obligations in the Philippines must be settled in Philippine currency, which is legal tender in the Philippines, unless the contracting parties stipulate that foreign currencies may be used for settling obligations (Section 1, Republic Act No 8183).

10. Execution Formalities

10.1 Authentication, Notarisation, Witnessing, Etc

Since franchise agreements are essentially governed by the law on contracts under the Civil Code, the agreement shall be valid and binding among the parties regardless of its form. However, should the parties desire that the agreement be valid and binding with respect to third persons, the document should be notarised if executed in the Philippines and apostilled if executed abroad.

10.2 Electronic Signatures

Contracts shall be obligatory in whatever form they may have been entered into, provided all the essential requisites for their validity under Article 1318 of the Civil Code are present. Moreover, the use of electronic signatures is valid and recognised under the E-Commerce Act. To date, there is no existing jurisprudence where the due execution or authenticity of a digitally signed contract is in issue.

10.3 Stamp Duties

A documentary stamp tax (DST) is imposed on certain documents, instruments, loan agreements and papers that evidence the acceptance, assignment, sale or transfer of an obligation, right or property. The tax is levied on the document itself because it evidences a transaction or legal relationship.

DST is generally paid by the person making, signing, issuing, accepting or transferring the instrument, but all parties to the transaction may be held liable, and they may agree among themselves on who will shoulder the cost. However, since the franchise agreement qualifies as a TTA, Section 88.4 of the IP Code mandates that all Philippine taxes related to the arrangement must be borne by the licensor.

Trends and Developments

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Cruz Marcelo & Tenefrancia

Cruz Marcelo & Tenefrancia is a top-tier full-service law firm with a strong track record of providing exceptional legal services across various industries. With recognised expertise in intellectual property (IP), among other areas, the firm advises both local and foreign clients throughout the entire IP life cycle, from creation to protection, enforcement and commercialisation, to ensure that maximum value is derived. Cruz Marcelo & Tenefrancia provides comprehensive legal

and business-oriented advice to clients to promote innovation and address the complexities of all types of IP commercialisation agreements, including, but not limited to, licensing and franchising agreements. The lawyers are attuned to the business objectives of their clients, tailoring their advice and strategies to maximise the value of IP towards sustainable business growth.

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Patricia A O Bunye is the managing partner at Cruz Marcelo & Tenefrancia. She is an expert on IP commercialisation, including licensing and franchising, and was president of the Licensing Executives Society

International (2016–17), the first Filipino and Southeast Asian to hold this position. In 2020, Patricia received LESI's Peter K. Hess Award of Achievement (conferred on LESI members who have made lasting contributions to the licensing profession). She wrote the Philippines chapter of *International Licensing and Technology Transfer: Practice and the Law*. Patricia has been recognised as being among the top 100 lawyers in the Philippines by a major legal directory since 2018, and cited by various international law research publications.



Anica Angela G Gomez specialises in litigation and the commercialisation of IP owned by local and foreign companies and individuals. Her commercialisation practice includes providing practical and business-

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PHILIPPINES TRENDS AND DEVELOPMENTS

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Bianca Marie J Angela M Rañola is an associate in Cruz Marcelo & Tenefrancia's IP department with experience in IP commercialisation and litigation, trade mark and patent prosecution, and patent drafting and prior art searches, among other things. She has worked with local and international clients to ensure the enforceability of their franchising, licensing and research collaboration agreements, and has provided counsel on regulatory and compliance matters in the Philippines. She also liaises with foreign correspondents on various IP requirements across different industries.

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The Philippine franchising industry has entered its “Golden Age”, with a multi-billion valuation and tremendous growth trajectory in 2025. While it has secured the top spot as a franchising hub in Southeast Asia, the Philippine franchising industry is still expected to experience upward growth with the continuous influx of local and foreign brands looking to establish their footprint in the Philippines and worldwide.

In recognition of the franchising industry’s contribution to overall economic growth, reforms in Philippine intellectual property law reinforce the ways through which new and existing franchises can continue to thrive in the Philippines. To this end, recent legal developments have enhanced enforcement mechanisms to ensure the protection of the intellectual property and goodwill established by franchise businesses over the years.

Register of Well-Known Marks

Primarily to safeguard the rights of well-known franchise brands, the Philippine Intellectual Property Office (IPO) has issued [Memorandum Circular No 2025-009](#), or the Rules and Regulations for the Declaration and Creation of the Register of Well-Known Marks (the “Regulations”), which took effect on 28 April 2025.

In 2007, the Philippine Supreme Court issued a landmark decision declaring “IN-N-OUT” as a well-known mark – the first mark to receive this formal declaration in the Philippines. Eighteen years later, the Regulations have streamlined the process for obtaining a declaration of well-known status by establishing a [Register of Well-Known Marks](#) (the “Register”), an ex parte system through which trade mark owners can obtain a declaration that its marks are well-known without having to participate in adversarial litigation.

The Register is especially valuable considering that it is not uncommon for owners of well-known marks to become aware of infringing or confusingly similar applications or registrations only upon encountering them as citations in the course of their own filings, by which time the appropriate recourse involves costly and time-consuming proceedings. Most of the time, these opposition, cancellation or intellectual property violation filings are resolved without even addressing the well-known status of the mark concerned. Now,

the declaration may be issued simply on the basis of the applicant’s evidence.

Application process and criteria

To apply, trade mark owners must submit a notarised application for the declaration of a well-known mark, together with evidence that the mark is well-known or falls under the criteria below, and other information on the mark required by the IPO. All submissions need only be filed via email.

The criteria for determining whether a mark is well-known are as follows (with the first four being mandatory criteria that must be proven):

- the duration, extent and geographical area of any use of the mark;
- the market share in the Philippines and other countries;
- the degree of inherent or acquired distinction of the mark;
- the quality, image or reputation acquired by the mark;
- the extent to which the mark has been registered worldwide;
- the exclusivity of registration attained by the mark worldwide;
- the extent to which the mark has been used worldwide;
- the exclusivity of use attained by the mark worldwide;
- the commercial value attributed to the mark worldwide;
- the record of successful protection of the rights over the mark;
- the outcome of litigations dealing with the issue of whether the mark is well-known, if any; and
- the presence or absence of identical or similar marks validly registered for or used on identical or similar goods or services, and owned by persons other than the person claiming that their mark is a well-known mark.

Should the applicant’s evidence be sufficient, the examiner shall recommend the mark’s approval to the Director of Trademarks, and a decision on the declaration of the mark as well-known shall be issued, which shall then be published in the E-Gazette. The Director

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of Trademarks' decision may be appealed before the IPO Director General in accordance with the Philippine Uniform Rules on Appeal.

Any interested person who may be damaged by such declaration may file with the Director of Trade-mark a Notice of Third-Party Observation within one month from the publication of the same. After another month from the Director of Trademarks' receipt of such Notice, a verified and written observation must be filed, which – together with any subsequent comment from the applicant – will be considered by the Bureau of Trademarks in deciding whether to grant the declaration.

In the absence of a Notice of Third-Party Observation, the mark will be declared as well-known on the 31st day following the publication of the declaration, after which a certificate shall be issued, and the declaration shall be entered in the Register.

Validity and maintenance requirements

The declaration of well-known status is valid for ten years and renewable for periods of ten years, provided that the registrant submits the following within one year from the fifth anniversary of the declaration, and upon each renewal:

- proof of continuous use in commerce (eg, receipts, actual labels, signages, bills of lading, product photos bearing the well-known mark); and
- proof of well-known status (eg, advertisements, certificates of registrations, financial statements).

Such evidence of use shall be submitted in addition to the Declaration of Actual Use, which must be filed within three years from the mark's filing date, five years from its registration date and one year from its renewal date.

The following shall lead to the revocation of the declaration:

- failure to renew the declaration within six months prior to its expiration or within six months after its expiration upon payment of surcharge;
- failure to submit proof of continuous commercial use; or

- petition for revocation with substantial evidence that the mark is no longer well-known.

Trade mark owners whose marks have previously been declared well-known by a competent authority need not submit an application and may simply file a Manifestation with the Bureau of Trademarks, attaching evidence of such declaration. Proof of continuous commercial use of such marks must also be submitted within five years from the effectivity date of the Regulations.

The recognition of a mark's status as well-known is beneficial as it helps prevent the registration of identical or confusingly similar marks, including those covering goods and services that are dissimilar to the well-known mark. This helps safeguard the mark from dilution or misuse in unrelated industries. Moreover, marks that are not yet registered in the Philippines but are declared well-known under this procedure are also protected with respect to identical or similar goods and services.

The declaration of a mark as well-known shall also constitute prima facie evidence of the well-known status of the mark with respect to the goods and services stated in the application, and shall result in the inclusion of the mark in the Register, which the IPO will consider in examining trade mark applications.

Use of Copyrighted Musical Works in Businesses

While legal reforms lend support to franchise businesses, the protection granted to them is counter-balanced by the right of other intellectual property owners to the protection of their creations. Thus, individuals and entities that seek to establish a business in the Philippines must consider recent Philippine jurisprudence on copyright infringement. This is particularly important for businesses that intend to play background music in their establishments, such as radio broadcasts played as background music in restaurants.

In *Filipino Society of Composers, Authors and Publishers, Inc. v Anrey, Inc.*, G.R. No 233918 (09 August 2022), the Supreme Court upheld the right of the Filipino Society of Composers, Authors and Publishers,

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Inc (FILSCAP) to collect royalties over copyrighted works of its member artists.

This case arose from the refusal of Anrey Inc (“Anrey”), the operator of two restaurants in Baguio, to pay annual licence fees to FILSCAP for the unauthorised use of its members’ copyrighted music. Anrey denied playing any copyrighted music within its establishments and averred that its establishments were merely playing music being broadcast over the radio, whose royalties have already been paid for by the radio stations.

In deciding whether the unlicensed playing of radio broadcasts as background music in dining areas of a restaurant amounts to copyright infringement, the Supreme Court ruled that the act of playing radio broadcasts containing copyrighted music through the use of loudspeakers is, in itself, a performance separate from the radio broadcast, and is thus entitled to its own protection. According to the Supreme Court, “A radio reception creates a performance separate from the broadcast. This is otherwise known as the doctrine of multiple performances which provides that a radio (or television) transmission or broadcast can create multiple performances at once”. Accordingly, it is immaterial if the broadcasting station has been licensed by the copyright owner. The reception of the broadcast becomes a new public performance requiring separate protection.

Further, the Supreme Court held that radio reception transmitted through loudspeakers to enhance profit does not constitute, and is not analogous to, fair use. The circumstances under which the copyrighted music was being played weighed against Anrey Inc’s argument of fair use. In this case, the copyrighted songs in their entirety were being played publicly throughout Anrey Inc’s establishments. The Supreme Court explained that “while Anrey does not directly charge a fee for playing radio broadcasts over its speakers, such reception is clearly done to enhance profit by providing entertainment to the public, particularly its customers, who pay for the dining experience in Anrey’s restaurants”. This commercial use, according to the Supreme Court, “is beyond the normal exploitation of the copyright holder’s creative work”.

In *Icebergs Food Concepts, Inc. v FILSCAP*, G.R. No 256091 (12 April 2023), the Supreme Court urged Congress to consider allowing exemptions for small businesses in copyright infringement cases.

The Supreme Court, citing its earlier ruling in *FILSCAP v Anrey, Inc.*, supra, found Icebergs liable for copyright infringement for playing copyrighted musical works of FILSCAP in its restaurants without consent.

The Supreme Court noted that this ruling would create a ripple effect such that all businesses, including small businesses that play music through radios, would also be subject to suits for copyright infringement. Thus, the Supreme Court recommended that Congress consider implementing a similar set of exemptions for small businesses in the Philippines following the “three-step test”, which provides exemptions to the copyright holders’ rights if they:

- cover only certain special cases;
- are not in conflict with the normal exploitation of the work; and
- do not unreasonably prejudice the legitimate interests of the copyright holder.

In *Filipino Society of Composers and Publishers v Wolfpac Communications, Inc.*, G.R. No. 184661 (25 February 2025), the Supreme Court addressed a novel intersection between copyright protection and consumer access to digital media. At issue was whether the act of allowing consumers to listen to 20-second audio samples of ringback tones before purchase constitutes a “public performance” or “communication to the public”, and whether such use infringes upon copyright or qualifies as fair use under Section 185 of the Intellectual Property Code of the Philippines.

The case stems from Wolfpac Communications, Inc (“Wolfpac”), a mobile content distributor that marketed downloadable ringback tones through telecommunications platforms such as Smart Communications. Users of the Smart website were permitted to listen to 20-second previews of songs, referred to as a “pre-listening function”, prior to downloading the ringtones.

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Here, the Court held that the “pre-listening function” constitutes communication to the public, but not as a public performance. The Supreme Court then found that Wolfpac’s agreements with composers only authorised the conversion of musical works into downloadable ringtones and their commercial distribution. These agreements did not explicitly include authorisation to stream free 20-second samples. Because all unassigned rights remained reserved to the composers, Wolfpac’s use of the pre-listening function exceeded the scope of its licence and infringed upon the copyright owner’s right of communication to the public. Nevertheless, the Supreme Court ruled that the pre-listening function qualified as fair use, shielding Wolfpac from liability.

This case is particularly important as creative content increasingly circulates through digital spaces. The Supreme Court’s approach balances acknowledging developments caused by innovative digital technologies while preserving the fundamental legislative policy of incentivising creativity.

The foregoing decisions highlight valuable considerations for individuals and entities who wish to do business in the Philippines by demonstrating the importance of ensuring that the necessary licences are obtained prior to using any copyrighted musical works. By properly licensing copyrighted works, franchise businesses can prevent any potential actions against them on the ground of copyright infringement.

For instance, in the case of franchise agreements, warranty clauses regarding the use only of licensed intellectual property, which includes copyright, must be stipulated for the benefit of both the franchisor and the franchisee. This would ensure that only licensed copyrighted works are used for the franchise business, and any violation of such warranty would constitute a breach of the agreement. Additionally, when licensing copyrighted works, the party seeking to obtain a licence must ensure that all its intended uses of the work are sufficiently covered by the licence. Otherwise, any use exceeding the scope of the licence may be considered as copyright infringement, unless it falls under exceptions such as fair use.

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