

# IP NEWS



## Franchisers Rejoice, The Law is in force in Saudi Arabia

In an effort to facilitate and promote investment in the country, the Implementing Regulations of the Franchising Law were published in the Official Gazette by the Ministry of Commerce on May 22, 2020. By way of background, the Law was approved by the Council of Ministers in October 2019 and entered into force in April 2020.

Under the old practice, franchising arrangements were treated as a commercial agency and were governed by the Commercial Agencies Law of 1992 and franchising agreements between the franchisor and franchisee were considered under the principal and agent relationship. Article 4 of the new Law clarifies that agreements or contracts subject to the outgoing Commercial Agency Law are no longer considered as franchise agreements.

With the new Law in effect, the relationship between the franchisor and franchisee is now clearer and transparent, as outlined in Article 3. Franchisors are expected to provide prospective franchisees with a disclosure document at least 14 days before both parties sign a franchising agreement. Once the agreement is signed by both parties it must be registered at the Ministry of Commerce within 90 days from the signing date. It is worth noting that Article 11 stipulates that the agreement must be submitted in Arabic.

Seeing that the use of Arabic is not a matter of choice but is a statutory requirement governed by local regulations, it becomes advisable to register the transliteration in the trademark in Arabic. While the transliteration of the mark is protected, likelihood of confusion is easier to prove when comparing marks in the

same language, i.e. Arabic in the case of Saudi Arabia. Having said that, registering trademark in the transliterated Arabic script, in addition to their original Latin format, is advisable considering that Saudi Arabia is governed by Civil Law—that is, the first-to-file policy carries considerable weight.

If the franchisor plans to conclude another franchise agreement in the coming year, then the franchisor must submit a statement of any changes in the information or documents to the Ministry of Commerce within 6 months of the end of the franchisor's financial year.

Should the franchise agreement end, the parties concerned should submit an application to the Ministry of Commerce to cancel the franchise registration and the franchisor should notify the Saudi Authority for Intellectual Property (SAIP) that the franchisee's license to use the franchisor's trademarks have ceased. It is worth noting that failure to do so may result in penalties.

This news comes in light of Vision 2030, with Saudi Arabia actively encouraging foreign direct investment and promoting the growth of small and medium enterprises. The Franchising Law, which is in line with international standards, reflects Saudi Arabia's high aspirations as a country that welcomes foreign investments. A healthy balance between the latter and local development is bound to be beneficial for the country's own growth. The proper application and enforcement of IP laws should help Saudi Arabia become more of an innovative hub in the Middle East and lead to this required healthy financial balance.

We are at your disposal for any further clarification.  
Best regards.

*References: Saba & Co. IP Ltd (local agent in Middle East).*

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