

Article - Business Regulation

§14–201.

(a) In this subtitle the following words have the meanings indicated.

(b) “Advertisement” means a communication that:

(1) is published in connection with an offer to sell or sale of a franchise;

and

(2) is:

(i) written or printed;

(ii) made by means of a recorded telephone message; or

(iii) spoken on radio, television, or similar communications media.

(c) “Area franchise” means an agreement between a franchisor and subfranchisor in which, for consideration, the subfranchisor is granted the right to sell or negotiate the sale of franchises in the name of or for the franchisor.

(d) “Commissioner” means the Securities Commissioner in the Office of the Attorney General.

(e) (1) “Franchise” means an expressed or implied, oral or written agreement in which:

(i) a purchaser is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan or system prescribed in substantial part by the franchisor;

(ii) the operation of the business under the marketing plan or system is associated substantially with the trademark, service mark, trade name, logotype, advertising, or other commercial symbol that designates the franchisor or its affiliate; and

(iii) the purchaser must pay, directly or indirectly, a franchise fee.

(2) “Franchise” includes an area franchise.

(f) (1) “Franchise fee” means a charge or payment that a franchisee or subfranchisor is required or agrees to pay for the right to enter into a business under a franchise agreement.

(2) “Franchise fee” includes payment for goods or services.

(3) “Franchise fee” does not include:

(i) the purchase of or agreement to purchase goods at a wholesale price;

(ii) the payment of a reasonable service charge to the issuer of a credit card by an establishment that accepts the credit card;

(iii) the amount paid to a licensed trading stamp company by a person issuing trading stamps in connection with the retail sale of goods or services;

(iv) the purchase of or agreement to purchase goods on consignment, if the proceeds remitted by the franchisee from the sale are the wholesale price of the goods;

(v) the repayment by a franchisee of a bona fide loan that the franchisor has made to the franchisee;

(vi) the purchase of or agreement to purchase goods at a retail price subject to a commission or compensation plan that in substance is a wholesale transaction;

(vii) the purchase of or agreement to purchase, at their fair market value, supplies or fixtures that are needed to enter into the business or continue the business under a franchise agreement;

(viii) the purchase or lease of or agreement to purchase or lease, at its fair market value, real property that is needed to enter into the business or continue the business under a franchise agreement; and

(ix) the amount paid for sales demonstration material and equipment, sold at no profit by the seller, for use in making sales and not for resale.

(g) “Franchisee” means a person to whom a franchise is granted.

(h) “Franchisor” means a person who grants a franchise.

(i) “Subfranchisor” means a person to whom an area franchise is granted.