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Source/Procedentia:	UNIDROIT, 28 Via Panisperna, 00184 Roma Italy
Tél./Tel:	(39) 06 696211
Fax:	(39) 06 699 41394
Web:	http://www.unidroit.org
E-mail:	info@unidroit.org

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GUIDE TO INTERNATIONAL MASTER FRANCHISE ARRANGEMENTS

Note: this guide is not publicly available and has to be purchased from the International Institute for the Unification of Private International Law (UNIDROIT). See <http://www.unidroit.org/english/publications/franchising/1998guide/main.htm>

The UNIDROIT Guide offers a comprehensive examination of the whole scope of master franchise arrangements, from the negotiation and drafting of the master franchise agreement and other associated agreements, to the end of the relationship and its effects. It deals with the positions of the directly involved franchisor and franchisee. In instances where it is considered to be of particular importance, the positions of others affected, such as sub-franchisees, are covered. The Guide to International Master Franchise Arrangements is designed for the use of professional parties.

Franchise arrangements are subject to a considerable number of laws and regulations in addition to those concerning commercial contracts or intellectual property rights. Essentially, these additional laws and regulations fall into two separate categories. The first one includes laws and regulations applicable to contracts in general; the second one includes those applicable to the specific contract concerned. Although an increasing number of States are considering the introduction of franchise-specific legislation, only very few regulate that matter. Where it exists, the legislation adopted refers to domestic franchising and not to international franchising; therefore its applicability to international franchise transactions needs to be assessed. This lack of franchise-specific legislation is due to the complexity of the relationship and to the great number of areas of law involved in a franchise relationship. With few exceptions the legislation adopted is disclosure legislation and not legislation regulating the relationship between parties.

A number of national and international franchise associations have adopted Codes of Ethics that intend to regulate the conduct of their members. These Codes of Ethics often deal with disclosure, albeit in a more summary manner. In general they state that prospective franchisees have to be provided with accurate and full disclosure, but do not contain specific details.

On 25 September 2002 the Governing Council of UNIDROIT adopted the Model Franchise Disclosure Law finalised by a Committee of Governmental Experts convened by the organisation to examine a draft prepared by the UNIDROIT Study Group on Franchising.