

SWEDEN

On 24 May 2006 the Swedish Parliament, after many years of discussions and a number of proposals, adopted a franchise-specific law: the *Law on the duty of a franchisor to provide information* (24 May 2006, Law no. 2006:484) (*Lag om franchisegivares informationsskyldighet* (24 maj 2006, SFS 2006:484)

As is indicated in its title, it is a disclosure law, which deals with pre-contractual disclosure. It is a very short law, comprising only six articles.

§ 1 states that the law contains provisions on the obligation of a franchisor to give the franchisee certain information before a franchise agreement is entered into.

§ 2 defines a franchise agreement as “an agreement by which an entrepreneur (the franchisor) agrees with someone else (the franchisee) that the latter against compensation paid to the franchisor shall use the special business idea of the franchisor for the marketing and sale of goods or services. As further conditions for an agreement to be considered a franchise agreement according to this law, is that the franchisee under the agreement shall use the distinctive trade marks and other intellectual property rights of the franchisor as well as co-operate on the occasion of recurrent controls of the observance of the agreement”.

The law does not give any indication of how long before the conclusion of the contract disclosure must be made. The commentary on the draft law states that this was a conscious decision, as it was felt that the needs might differ from case to case, and that therefore the court should be free to decide if a period of time was adequate. § 3 states that well before a franchise agreement is entered into, a franchisor shall in writing give the franchisee the information that is needed in consideration of the circumstances with respect to the implications of the agreement and other conditions. The information shall be clear and understandable. It shall at least contain

1. a description of the franchise activity that the franchisee is to run,
2. information on other franchisees with which the franchisor has concluded an agreement within the same franchise system and the extent of their activity,
3. information on the compensation that the franchisee shall pay the franchisor and other economic conditions for the franchise activity,
4. information on the intellectual property rights that will be granted the franchisee,
5. information on the goods or services that the franchisee is obliged to buy or rent,
6. information on the prohibition to compete that will apply during or after the time for which the franchise agreement will last,
7. information about the term of the agreement, conditions for modification, prolongation and termination of the franchise agreement, as well as the economic consequences of termination, and
8. information on how a dispute as to the agreement shall be tried and what shall apply as to liability for the cost of such a trial.

What is said in the first sub-paragraph applies also when, with the consent of the franchisor, an existing franchise agreement is to be assigned to a new franchisee.

§ 4 indicates that a franchisor who has entered into a franchise agreement without having fulfilled his obligation in accordance with § 3 may, with reference to that agreement and

future agreements, be enjoined to give information in conformity with that paragraph. Such an enjoiner may also be directed towards someone who is employed by the franchisor or who acts on his behalf.

§ 5 states that proceedings for enjoinders in accordance with § 4 should be brought before the Market Court. Such proceedings may be brought by:

1. a franchisee of an agreement as is intended in § 4,
2. an association of entrepreneurs, or
3. another association which has a legitimate interest to represent entrepreneurs.

Anyone who has a right to bring an action in accordance with the second sub-paragraph has the right to participate in the proceedings as intervener in accordance with Chapter 14 of the Book [Code] of Procedure.

Under § 6 an enjoiner in accordance with § 4 shall be combined with a fine, unless this is not necessary for special reasons.

Proceedings for enjoinders are to be brought at a District court which is competent in accordance with Chapter 10 of the Book [Code] of Procedure. Such proceedings may however always be brought before the Stockholm District Court. Furthermore, proceedings may be brought by the one who has requested that a fine be prescribed.

The law entered into force on 1 October 2006.