



FRANCHISING IN EASTERN EUROPE



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Aleksandar Erceg

FRANCHISING IN EASTERN EUROPE

YESTERDAY, TODAY, TOMORROW

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JOSIP JURAJ STROSSMAYER UNIVERSITY OF OSIJEK
FACULTY OF ECONOMICS IN OSIJEK



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NOTES ON CONTRIBUTORS

Aleksandar Erceg, Ph.D. is an Assistant Professor at the Faculty of Economics in Osijek, J.J. Strossmayer University of Osijek. He previously worked as deputy purchasing manager at two local production companies in Osijek (Saponia d.d. and Kandit d.o.o.). During his 20 years of experience in Saponia and Kandit, his tasks included organization of purchasing departments and supply chain management, cooperation with suppliers, customs authorities and logistics companies. He was part of the project team for the implementation of the ISO 9001 and 14001 standards in Saponia, and the IFS standard in Kandit.

He has published more than 30 scientific articles in peer-reviewed journals. His research focuses on entrepreneurship, franchising, operations management and lean thinking. In 2017, he published the first book about franchising in Croatian language "*Franšiza – način pokretanja franšiznog poduhvata i strategija rasta poslovanja*". As part of the team of the Franchise Centre Osijek, he has conducted more than 30 seminars on franchising throughout Croatia and advises entrepreneurs at various stages of implementation of franchising in their business.

He is teaching several courses, including Operations Management, Franchising Entrepreneurship, and Corporate Entrepreneurship at various levels of study programmes. In addition to regular education, he is committed to continuous learning in the field of entrepreneurship, operations management, lean thinking, and franchising, by participating in domestic and international educational programmes. He earned his Ph.D. in Management from Faculty of Economics in Osijek in 2012. The topic of his doctoral thesis was franchising and its influence on entrepreneurs' growth strategies. He is a member of the Croatian Association of Purchasing (HUND).

Mirela Alpeza, Ph.D. is an Associate Professor at the Faculty of Economics in Osijek, where she teaches courses on Business Transfer in Small and Medium-sized Enterprises, Family Entrepreneurship, Corporate Entrepreneurship and Competitive Intelligence. Since 2004, she has been running the Franchise Centre, which operates within the Centre for Entrepreneurship Osijek. That same year, she participated in the "Big Picture" training programme on the topic of franchise business at the University of Texas. As part of the team of the Franchise Centre Osijek, she has conducted more than 30 seminars on franchising throughout Croatia and advises entrepreneurs at various stages of implementation of franchising in their business. In 2006 and 2012, as a

co-author, she participated in the research on the topic of identification of obstacles to the development of the franchise business model in Croatia, the results of which were used to create policy recommendations for the development of franchising in Croatia. She has written several scientific and professional articles on the topic of franchising, three chapters in books, and several case studies describing the application of franchise as a business model in Croatia. She is the co-author of the “San Francisco Coffee House” case study, listed in the Ivey Publishing’s catalogue of case studies in English and French.

In 2009, she received her Ph.D. in Competitive Intelligence. Since 2011, she is the director of CEPOR – SMEs & Entrepreneurship Policy Centre, where she works on raising awareness of the issues of family businesses and business transfer in Croatia. She is a member of the ECSB – European Council for Small Business and Entrepreneurship (Country Vice President for Croatia).

Ljiljana Kukec, M.Sc. is the co-founder and president of the Croatian Franchise Association. She was a vice president of European Franchise Federation and currently is a member of World Franchise Council. She has had her own company since 2001, operating in the sector of medical wellness, offering the Body Creator slimming centres franchise. Presently, she has 6 franchise partners and 9 licensees in Croatia and the region.

She has published several scientific articles in peer-reviewed journals and more than 20 professional papers about franchising. She is the co-author of the book “Guide Through Entrepreneurship” and the editor of the Croatian edition of UNIDROIT – Guide to Master Franchise Agreements. She is teaching a course about franchising at the University of Luxembourg and University of Applied Sciences Vern in Zagreb.

She earned her M.Sc. in Management from Faculty of Economics in Osijek in 2009. Her master thesis was written on the challenges for implementation of franchising in Croatia. Currently, she is a Ph.D. candidate at the International Centre for Entrepreneurial Studies at the Faculty of Economics in Osijek and her doctoral thesis will be about franchising potential of Croatian SMEs.

Marta Ziółkowska, Ph.D. is an Assistant Professor at the Institute of Management, Unit of Corporate Management, Warsaw School of Economics, Poland. Her 15-year professional and research specialization includes franchising business, small and medium enterprises management, modern business model development, corporate cooperation, social entrepreneurship and innovations in organizations.

Marta Ziółkowska is the Polish ambassador of MAG Scholar Marketing in Asia Group, mentor at the J&M Global Management students’ association and head of Corporate Management at Retail Postgraduate Studies. She teaches the following courses:

Management, Management Challenges, Modern Business Models, Cooperation Strategies, Management in International Business and Franchising Business.

She has gained international experience during numerous scholarships, study tours and visiting professor stays in several countries (USA, New Zealand, Iceland, Croatia, Portugal, France, Slovenia, Norway and UAE). Marta Ziółkowska has published numerous books, papers in peer-reviewed journals, working papers, conference proceedings, and has participated in international research teams. She combines research-teaching activity with business practice through cooperation with enterprises. She has professional experience in areas of business consulting and franchise training.

Katalin Mandel Ph.D. is a veteran in the franchise industry. She graduated from the University of Economics in Budapest (since recently Corvinus University of Budapest), after which she successfully completed a post-graduate study (doctorate) at the same University. She was the founder and managing director of the Royal Diamond Business Club, which organizes business events for top managers in Hungary (1992-2003), which still operates very successfully. Between 2004 and 2008, she organized the annual International Franchise Exhibition and Buybrand Show and Franchise Conference in Budapest as the managing director of the Dakexpo Ltd.

In 2009, she attended the U.S. State Department Business Development Issues for Women Business Leaders IVP programme. Since 2008, she is the CEO of the HFA (Hungarian Franchise Association), which represents the franchise sector in Hungary. She is active in lobbying activities of the franchise sector in Hungary. She has held lectures at several conferences and at the Franchise Academy which was launched by the HFA. She represents the Hungarian franchise industry in the European Franchise Federation as a board member since 2016 and represents Hungary at the meetings of the World Franchise Council. She is the co-author of the book "Franchise as a Business Model", which was released in 2010.

Igor Pavlin, as a management development specialist at the International Centre for Promotion of Enterprises, has worked closely with United Nations organizations such as UNIDO, ILO, and UNDP. As a consultant to the Economic Development Institute of the World Bank, he organized several international policy level seminars on industrial restructuring and privatization. His involvement in franchising issues started in 1990 when he organized a regional workshop on entrepreneurship in Kuala Lumpur for policy level officials and academicians from Asian countries for the International Labor Organization. Franchising was singled out as a route for SME development. The European Foundation for Management Development awarded him the prize for the best paper. The paper dealt with the issue of entrepreneurship and franchising development.

He was the recipient of an EU fellowship to do an in-depth study of franchising in the UK. For the last 20 years, he has been a lecturer about franchising at the Gea College for Entrepreneurship in Ljubljana. During the same period, he was the Secretary-General of the Slovenian Franchise Association. On this same subject, he was a guest lecturer at the University of South Europe in Monte Carlo, Babson College in Boston, Westminster Business School, London, and International Management Institute, University of St Gallen. He has had several articles published in publications on franchising in the UK, by ILO, and in the USA, by Springer and others. He also assisted in preparing the franchising supplement of the Financial Times.

Marica Vidanović, B.Sc. is a franchise project manager at the Chamber of Commerce and Industry of Serbia in Belgrade, Republic of Serbia. The Chamber is an independent, modern and responsible non-budgetary institution, a national association of all Serbian businesspeople, which serves the best interests of its members and the Serbian economy, owing to its tradition, experience, and knowledge.

Since 2007, she has been leading the Center for Franchising with the main aim of guiding the potential franchisors and franchisees toward the development and enlargement of franchising, assisted by franchise stakeholders, to elaborate working programmes at the local level and implement continuous and high-quality cooperation at national and international levels. The focus of her activities is to inform the business public, raise awareness, elevate professional standards in franchising, to educate based on the model of successful franchises through creation of educational materials, websites, seminars, and presentations of the most successful franchising case studies, and by establishing a direct connection between franchisees and franchisors.

She is providing new know-how on the franchising business model and guidelines on how to start up, including all the aspects of franchising systems. As a professional lecturer and consultant with over 100 conducted seminars on franchising issues, she has been involved in numerous processes of creation and follow-up of franchise concepts in Serbia. At the same time, she represents the interests of companies in dialogue with the relevant ministries and public administration – initiatives for changes in legislation, improvement of business environment, establishing new regulations, etc. She is the author of many articles on franchising published in the country and abroad and organizer of numerous conferences and expos in Serbia and internationally.

Tamara Milenković-Kerković, Ph.D. is a Full Professor at the Faculty of Economics, University of Niš, Serbia where she holds courses in Commercial and Business Law, International Trade Law and Banking Law. She defended her master's thesis in 1996 at the Faculty of Law, University of Belgrade under the title *Legal Nature and Legal*

Aspects of the Franchising Agreements. She defended her Ph.D. thesis on international countertrade transactions at the same university in 2003. She has 25 years of academic teaching experience, and her fields of interests are commercial contracts, franchising and factoring agreements, customer protection, mediation, banking law, securities and finance law. She gained international experience during scholarship periods at several universities in Hungary, Italy, and France. In 2005, she was awarded a research scholarship from both UNIDROIT and Serbian Government at UNIDROIT (International Institute for Unification of Private Law) in Rome, to work on the Project on Disclosure Franchising Law in Serbia.

She has practical experience in the field of commercial contracts – franchising, factoring, and banking transactions. She has been a partner of the Center for Franchising at the Serbian Chamber of Commerce since 2007, and lecturer in many educational programmes on franchising, as well as a member of the working group for legislative activities in the field of franchising. She was a franchising lecturer and legal consultant of numerous Serbian enterprises.

Her academic work includes six books, two of which are dedicated to franchising (Franchising Agreement-Secret of Success, 1997 and Autonomous Contracts in Commercial Law, 2009), more than a hundred scientific papers published in domestic and international academic journals, as well as participation in numerous international conferences and scientific projects. She has translated the UNIDROIT Guide on International Master Franchising Arrangements into Serbian in 2010, and in 2014 she drafted the proposal for the regulation for franchising and factoring agreements, which is currently under public discussion in the Serbian legal community.

Jovanka Damoska Sekuloska, Ph.D. is a research associate at the University of Information Science and Technology “St. Paul the Apostle”, Ohrid, Republic of Macedonia. She teaches a group of economic courses within undergraduate programmes at the UIST “St. Paul the Apostle” in Ohrid. Her research focuses on competitiveness and internationalization processes of national economies. Her published work deals with the analysis of factors that enhance the competitiveness of economies, emphasizing the importance and the essential role of education and innovation. Her research interest focuses on the influence of internationalization processes and inflow of FDI on the development and growth of small economies. Jovanka Damoska Sekuloska has presented the results of her research work within the framework of several international conferences on economics and management. An important part of her professional experience is the participation and provision of her expertise within national and international projects. Currently, she is actively involved in an international project aimed at boosting the internationalization and promoting export competitiveness of SMEs in the cross-border region between Macedonia and Kosovo. In the period from 2013 to 2017, Damoska

Sekuloska has been engaged as an economic analyst in measuring inflation expectations, conducted by the National Bank of the Republic of Macedonia. Damoska Sekuloska received her B.Sc. in Customs and Freight-forwarding at the University "St. Kliment Ohridski" in Bitola and both her M.Sc. in International Trade and Ph.D. in Economics from Faculty of Economics at the "Ss. Cyril and Methodius" University in Skopje.

INTRODUCTION

Aleksandar Erceg, Ph.D.,
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Although roots of franchising can be found in the 10th century (King Edgar and beer places) and in the first half of the 19th century in Germany, the first representatives of modern franchising can be found in the USA in the second part of the 19th century (Singer Sewing Center, General Motors and Coca-Cola) (Erceg, 2017). In the second part of the 20th century, there was a new phase of franchising development – business format franchise, which was introduced by McDonald's and Ray Kroc. Business format franchising gained popularity and was spread worldwide by American fast food restaurants (McDonald's, Subway, Dunkin Donuts, etc.). These fast food restaurant franchisors demonstrated to other service industries how to standardize and replicate successful business systems (Alon, 2014). Franchising entered countries in Eastern Europe at the end of 1980s and the beginning of 1990s when those countries switched to a market economy and allowed entrance of foreign companies and capital. It was then that the franchising revolution started, mainly by foreign franchisors entering the country, thus initiating actions of local entrepreneurs who started using franchising as a growth strategy as well.

Book **Franchising in Eastern Europe – Yesterday, Today, Tomorrow** is the result of cooperation between several researchers from different countries whose main research interest is franchising, who covered different aspects of franchising and different countries. After publishing the first book about franchising in Croatian language, the next question arose: *What does the situation look like in neighbouring countries that changed their economic systems at the end of the 1980s and the beginning of the 1990s?* Franchising is in different stages of development in countries covered in this book, but there is still a lot of room for improvement. The book is organized into eight chapters. In the first two chapters, authors give a literature review of franchising as one of the most important ways of starting new ventures or growing a business and present the latest changes in franchising regulations worldwide. The following chapters present the franchising situation in Croatia, Poland, Hungary, Slovenia, Serbia and Macedonia. At the end of the book, we have included the European Code of Ethics for Franchising, which we find essential for the further development of franchising business in Eastern Europe.

In the chapter **Franchising**, Mirela Alpeza, Ph.D. introduces franchising. Franchising is a business model that applies to starting-up and growing a business venture. The franchise relationship connects two parties: the franchisor and the franchisee, where the franchisor is a company that has, thanks to the experience of doing business in an industry, developed a successful business model and a recognisable brand and wants to expand the business to other geographical areas. Franchisee is most often an entrepreneur who is just starting out in an industry and sees an opportunity in implementing the franchisor's successful business model in their local area. The key theories that explain the reasons for applying the franchise business model are resource scarcity theory and agency theory. Both theories point to the challenges faced by franchisors when applying this model as a business growth strategy, and the possible answers. There are many types of franchises, but by their application, two basic models described in this chapter stand out: product distribution franchise and business format franchise. In academic discussions related to franchising, debates about the assessment of the entrepreneurial capacity of franchisees are the most frequent. This chapter highlights arguments that affirmatively evaluate the entrepreneurial behaviour of franchisees, emphasizing the necessity of franchisees' entrepreneurial behaviour in identifying business opportunities, team selection and taking risk in the form of financial investment required to join a franchise network. Finally, this chapter highlights that implementation of franchising as a strategy of starting-up or growing a business requires careful preparation and analysis to avoid negative experiences of franchisors and franchisees whose cause mainly lies in unrealistic expectations and erroneous assessment of the role of each of the parties in this relationship in achieving synergistic effects.

In the chapter **Complex nature of franchising and new challenges for development**, Ljiljana Kukec, M.Sc. gives an overview of the complex nature of the franchising business model and writes about challenges franchising is facing in further development. Franchising is, according to Ljiljana Kukec, facing significant challenges worldwide in relation to its legal regulation. These challenges are caused by certain changes in the USA regarding franchisees' employees. This has resulted in creation of several initiatives from the World Franchise Council and other international and national associations. Because of these changes, the European Franchise Federation has created a new Code of Ethics, which serves as regulatory framework. The author also gives an overview of activities at the level of national franchise associations in the region.

Chapter **Franchising in Croatia – yesterday, today and tomorrow** considers the current state of franchising in Croatia: number of systems, number of locations, shares in various sectors, and various factors that are slowing its growth. Although franchises have operated in the country since the mid-1960s, the economic and political system in the former Yugoslavia impeded their development. The author gives an insight into legal regulation of the franchising sector in Croatia. The franchising sector grew following Croatian independence, but there is room for expansion, particularly for domestic

franchise chains. The author argues that the sector requires strong support from the Croatian Franchising Association.

In the chapter **Franchising in Poland – past, present, future**, Marta Ziółkowska presents the current state of franchising in Poland. The chapter presents stages of development of franchising relationship in Poland in the last 30 years and gives information about the current franchising situation: number of franchising systems, number of people employed, etc. The author looks at the legal framework which regulates franchising in Poland and cites several laws that provide a constitutive basis for franchising in Poland. Several potential exemptions regarding franchising contracts are presented. She gives her vision of the future franchising potential in Poland based on the current situation, and she concludes that the Polish market is reaching maturity and, consequently, there will be several domestic franchising systems that will decide to expand abroad.

In the chapter **Franchising in Hungary – the beginning, the present and the future**, Katalin Mandel introduces the past, the present and the future of Hungarian franchising. The chapter gives information about the start of franchising in Hungary after the political transition at the beginning of the 1990s. The author presents the current situation in franchising in Hungary by providing information about several international and domestic franchising networks, industrial sectors in which franchising is present, and Hungarian franchising networks that have expanded abroad. The chapter gives information about the legal regulation of franchising in Hungary and about the Hungarian Franchising Association's activities. These activities are aimed towards current and potential franchisors and franchisees in order to give them more information about franchising and to increase the importance of franchising for the Hungarian economy. The author gives several examples of successful Hungarian franchising systems through short case studies. She gives a prediction for the future development of franchising in Hungary and sees an opportunity for further growth of the number of franchisors and franchisees in Hungary.

In the chapter **Franchising in Slovenia – ieri, oggi & domani**, Igor Pavlin gave an excellent overview of franchising in Slovenia from its start to the current situation. Igor Pavlin follows the timeline of franchise development since the early steps in the 1980s until today. He gives an overview of the Slovenian Franchise Association's activities, as well as of his role during the early stages of franchise development in Slovenia. The author gives a special overview of the so-called *soft-franchising* and talks about success and failure of franchise systems in Slovenia. The role of franchising consultants and their connection with the Slovenian Franchise Association are examined as well. Instead of a conclusion, Igor Pavlin asks several questions, which can create ideas for surmounting current difficulties for franchising in Slovenia.

In the chapter **Development of franchising in Serbia**, Marica Vidanović, B.Sc. and Tamara Milenković Kerković, Ph.D. gave an analysis of the current situation of fran-

chising in Serbia from two standpoints – legal and economic. Marica Vidanović presents the development of franchising in Serbia, from the first American companies that entered the market, to the development of domestic franchising networks whose number has recently been increasing significantly. The role of the Center for Franchising at the Serbian Chamber of Commerce, which plays an important part in the development of franchising in Serbia, is presented. The authors present activities conducted by the Center for Franchising to promote further expansion of the franchising business model and ways in which it can help current and potential franchisors and franchisees. Tamara Milenković-Kerković presents the current legal regulative of franchising in Serbia and the activities that are being carried out to help parties involved with the franchising business model. A complete overview of legal regulations related to franchising is given, together with all the necessary information that a potential franchisor or franchisee need to have in mind.

In the chapter **Franchising business model in the Macedonian economy**, Jovanka Damoska Sekuloska makes the first insight into franchising situation in Macedonia. The main purpose of the text is to analyse and consider the perspective of implementation of the franchising business model through the practice of a small-sized economy, such as the Macedonian economy. Analysing the actual experience with the franchising business model as an opportunity for internationalization of the economy on the one hand, and as a tool for boosting entrepreneurial activities and capacities on the other, it can be noted that this is still an unexploited concept in the Macedonian economy. The conducted research identified a set of factors, establishing poor attractiveness of the economy for implementation of the franchising business model. Unfavourable franchising environment encompasses poor economic attributes, inappropriate demographic and market characteristics, and lack of institutional and governmental support for the promotion of the franchising business model. The process of scanning the franchising environment detected the reasons for the actual level of implementation of the franchising business model in the Macedonian economy, but at the same time, it suggests activities and measures that should contribute towards improvement of the franchising environment. The chapter suggests the creation of the so-called “franchising cluster”, a network of parties which will provide regulative, institutional, financial and knowledge support and contribution to the process of higher implementation of the franchising business model, as one of the models of development of the Macedonian economy.



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FRANCHISING IN POLAND – PAST, PRESENT, FUTURE

Marta Ziółkowska, Ph.D., Institute of Management,
Warsaw School of Economics, Warsaw, Poland

1. INTRODUCTION

The current franchise model of enterprise development has evolved for centuries. Franchising in its contemporary form was initially developed in the American market, but owing to its universality, this model has gained supporters among entrepreneurs all over the world. Today, it is successfully applied in Poland, where nearly 1,2000 networks, both in the trade and services sectors, follow this model of development. This is so even though franchising is not regulated in detail by law in Poland, and the franchise agreement operates as an innominate contract in the legal order. The legal framework underlying franchise relationships is anchored in various regulations, in particular, those devoted to combating unfair competition.

The changes that took place in Poland after 1989 drummed up interest in the Polish market among international companies offering franchise agreements, mostly from North America and Western Europe (Ziółkowska, 2014). A decision was taken to replicate the proven and tested projects based on franchise collaboration in new markets. The main reasons for the expansion of franchising in Poland predominantly include

- elimination of borders and trade restrictions between post-communist countries and the rest of Europe; and
- market potential, due to a large population and the freed society's needs (Antonowicz, 2010).

Since their launch in Poland, franchise cooperation projects have attracted keen interest among entrepreneurs. The dynamic development of the franchise market resulted in qualitative changes in the concepts and boosted their popularity. The distinguishing features of the franchise system market in Poland are its considerable maturity due to the higher number of domestic than of international systems and the expansion of Polish franchise companies outside the country.

2. BEGINNINGS OF FRANCHISING IN POLAND

The beginnings of franchising in the world, in its present form, date back to the early 20th century. Owing to the history of Poland and the economic system adopted after 1945, franchising could not develop in the same manner as in free market economies. Only after the political transformation did the free market economy based on private ownership allow for the emergence of franchise companies in Poland. The first to expand were the networks imported from abroad – large global corporations such as Yves Rocher and McDonald's, which were later followed by Polish enterprises joining the sector.

The proper history of franchising in Poland began with the economic changes that took place in the political system after 1989. Foreign capital that began to flow in in the early 90s fueled a sizeable and considerably unsaturated market in every industry. The first franchise outlet began to operate in Warsaw in 1989 as part of the Yves Rocher cosmetics network. A year later, franchise units of other global brands, i.e. McDonald's and Adidas, came into existence. Furthermore, in 1992, the rapid rate of growth in the number of foreign franchise systems brought about the emergence of first outlets operating under Polish brands. The pioneers of domestic franchises were: A. Blikle (cake shops) and Pożegnanie z Afryką (tea shops).



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Table 1. Stages of development of franchise relationships in Poland, 1989-2017

Stage and duration	Characteristics of the process	Changes	Examples
1. 1989-1994	Emergence of first foreign franchise systems in Poland	<ul style="list-style-type: none"> inflow of foreign franchise concepts – inbound flow only a few new systems emerged in the market every year the majority first opened pilot units 	Yves Rocher McDonald's Adidas
2. 1995-2000	Development of first Polish franchise networks	<ul style="list-style-type: none"> Polish systems modeled on foreign franchise networks further expansion of foreign networks in the Polish market Polish systems outnumber foreign systems in Poland 	Pozegnanie z Afryką Blikle Mc. Hamburger
3. 2001-2006	Boom of franchise entrepreneurship	<ul style="list-style-type: none"> higher rate of growth of Polish systems than of foreign systems activity of Polish systems expansion of Polish systems abroad – outbound flow 	Trendy Hair Fashion Indeco Orlen
4. 2007-2012	Period of economic slowdown	<ul style="list-style-type: none"> development of franchise as a safe business model during the crisis considerable pace of arrival of new systems growth in the number of franchise units 	Big Star Helen Doron Yasumi
5. 2013-2017	Slowdown of the rate of franchise market growth	<ul style="list-style-type: none"> saturation of the market with franchise concepts and further stable development building long-lasting relations between the franchisor and franchisees development of multi-unit franchise and multi-concept franchise 	Delikatesy Centrum Mercure MyTravel.pl

Source: Author's own work based on various sources.

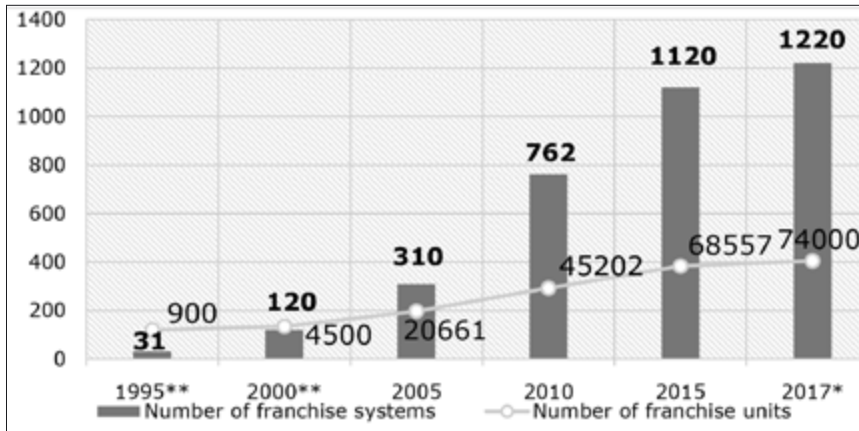
3. DEVELOPMENT OF THE FRANCHISE MARKET

3.1. GENERAL CHARACTERISTICS OF FRANCHISE RELATIONSHIPS IN POLAND

Since the emergence of franchising in Poland, both franchise systems and franchise units have been following an upward trend. A growing number of network concepts means that the offer of franchise systems is getting richer and the market is becoming increasingly mature. Recent years, however, have witnessed a slowdown in the growth rate due to the entry of the Polish franchise market into the maturity phase and significant saturation of the economy with franchise entities. At the end of 2016, the number of franchise systems reached 1,146, and the number of units operating within these systems stood at 71,374 (see Figure 1). In 2016, the number of systems grew by 4.6%

compared to the record-breaking figures for 1997 – 39.5% and 2008 – 27.7%. The number of franchise units followed a similar trend, with a continuous increase of 15.5-19.4% observed in the 2009-2011 period. However, in the last three years, this growth amounted to only about 3.8% (Raport o franczyzie, 2017).

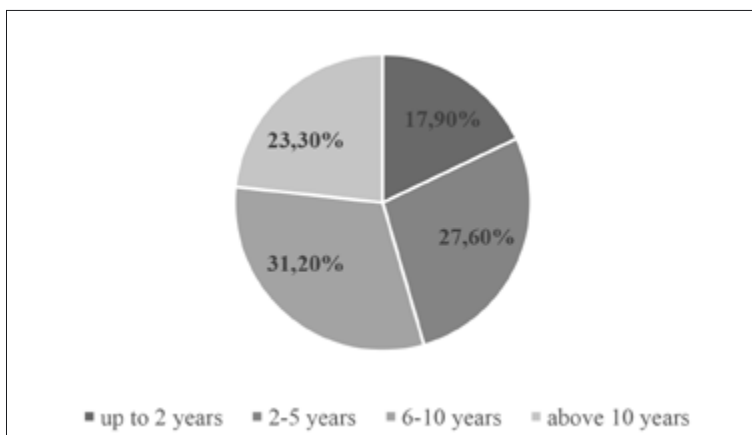
Figure 1. Number of franchise systems and units in Poland, 1990-2017



Source: Author's own work based on *Raport o franczyzie w Polsce 2017*, Profit system, 2017

The analysis of the age structure of franchise systems operating in Poland presented in Figure 2 shows that at the end of 2016 mature networks present in the market for 6 to 10 years were the most numerous, accounting for as much as 31.2% of all the systems. The second largest group of systems comprised the ones operating in the market for 2 to 5 years – 27.9% of all the systems. The youngest systems operating for less than 2 years accounted for 17.9% and constituted the least numerous group.

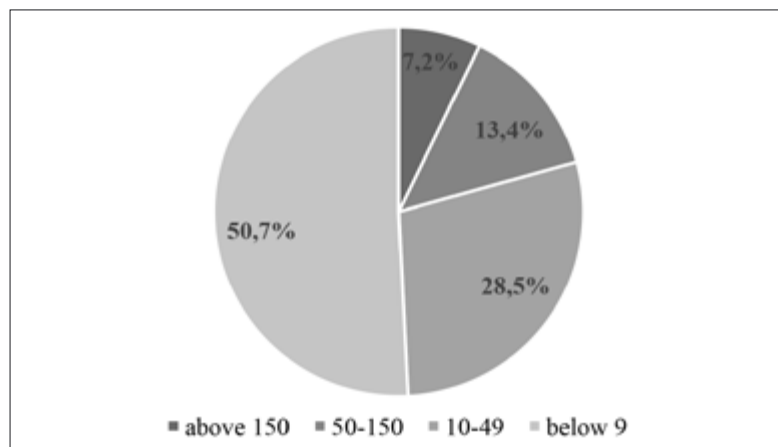
Figure 2. Age structure of franchise systems in Poland in 2016



Source: Author's own work based on *Raport o franczyzie w Polsce 2017*, Profit system, 2017

The Polish franchise market has a significant number of systems with less than 10 franchise units – 50.7% of the total. 28.5% of the systems comprise up to 50 units, 13.4% of the systems have 50 to 150 units, and only 7.2% of the networks embrace more than 150 units. These data indicate that there is still a large potential for the Polish franchise market to grow more mature.

Figure 3. Concentration of franchise units in Poland in 2016

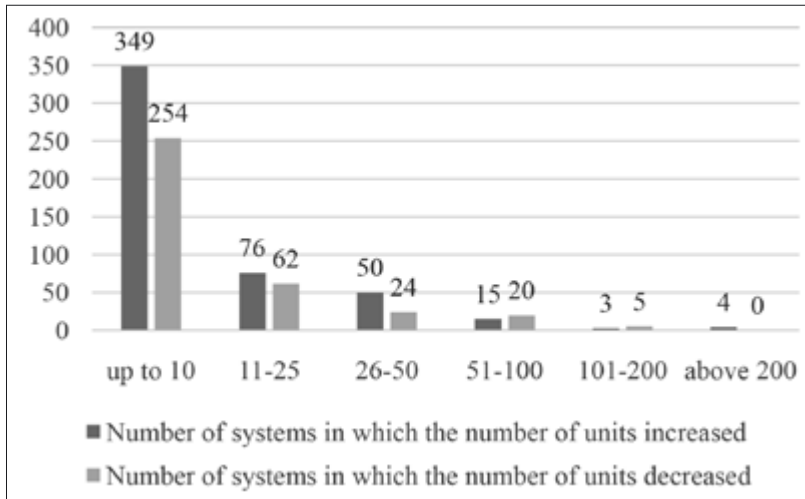


Source: Author's own work based on *Raport o franczyzie w Polsce 2017*, Profit system, 2017

Quite interesting from the point of view of specificities of the Polish franchise market is the analysis of changes in the number of franchise units within the systems. In 2016, as many as 497 franchise networks, accounting for 43.4% of the total market, reported an increase in the number of franchise outlets compared to the preceding year; the number of units decreased in 31.8% of the networks, while it remained unchanged in one-fourth of them. In the case of 349 networks (i.e. 70.2% of all the networks with an increase in the number of franchise units), the increase was not higher than 10 new units. In 76 networks (15.3%), 11 to 25 new units were added. In 50 networks (10.1%), the growth was from 26 to 50 new units, and in 15 networks (3%) the number of new units ranged from 51 to 100. In the case of only 7 networks, the number of new units increased by over 100.

In 2016, the number of franchise units declined in 365 networks. Most of them, i.e. as many as 254 (69.6%), contracted by no more than 10 units. In the case of 62 networks (17%), the number of franchise units fell by more than 11 but less than 25. 24 networks (6.6%) experienced a decline by 26-50 units. In the case of 20 networks (5.5%), the fall in the number of units ranged from 51 to 100. A decline in the number of units by more than 100 was reported in 5 networks (1.4%). The number of systems in which the number of franchise units changed in 2016 is shown in Figure 4.

Figure 4. Structure of changes in the number of units in franchise systems in Poland in 2016



Source: Author's own work based on *Raport o franczyzie w Polsce 2017*, Profit system, 2017

The predominance of domestic networks is indicative of the maturity of the Polish franchise market. In Poland, the market is dominated by domestic franchise systems (79.7%), while foreign networks account for 20.3% of the market. Franchise units of domestic origin represent 86.3% of the total, and foreign units make up 13.7% of the Polish market. Currently, the number of foreign systems is growing at a very slow pace every year. In 2000, foreign networks accounted for half of all the systems. Most of the foreign systems come from the USA (18.5%), Germany (17.6%), Italy (15.2%) and France (10.8%). Foreign networks most frequently expand to Poland by establishing a subsidiary (39.5%) or by using the master franchise formula (38%). Also, Polish franchise systems mark their presence abroad. The most common directions of the Polish franchise expansion are Slovakia, the Czech Republic, Germany, Ukraine, Russia, and Lithuania. In 2016, 127 franchise systems had their outlets outside Poland, mostly in the Czech Republic and Slovakia. Most often, Polish systems follow the direct model of international development, but 18.3% of Polish franchisors decide to acquire a master franchisee. This confirms the increasingly high quality of Polish franchise systems, which is also appreciated by foreign entrepreneurs.

3.2. ANALYSIS OF FRANCHISE RELATIONSHIPS IN POLAND BY INDUSTRY

Analysis of the structure of the Polish franchise market shows that the market is divided into franchise systems operating in trade and in services. A deeper analysis of the trade and services sectors allows for identifying the industries in which franchise systems develop.

At the end of 2016, there were 549 franchise networks in trade and 597 networks in services. Although the number of franchise networks in the trade sector is similar to the number of those operating in services (see Figure 7), it is evident that trade systems clearly dominate in terms of the number of franchise units and the number of franchisees. As much as 76.8% of all franchise units operated in trade. Similar proportions prevail in the structure of franchisees, as 77.3% of them pursue their business in trade. Despite the diversification of the market structure in terms of systems operating in the trade and services sectors, franchisees more frequently choose systems that operate in trade. This is due to lower barriers to entry into trade systems and the possibilities of converting existing outlets into networked ones. The structure is mainly influenced by the food & industrial products sector, where the number of franchise units and franchisees has been the highest for years. This is attributable to the fact that the number of small independent grocery stores has been systematically decreasing in Poland year after year. On the other hand, service systems require transfer of know-how and more substantial support for the franchisees, which may constitute a barrier to rapid development.

Figure 5. Structure of the franchise market in Poland by entity in 2016



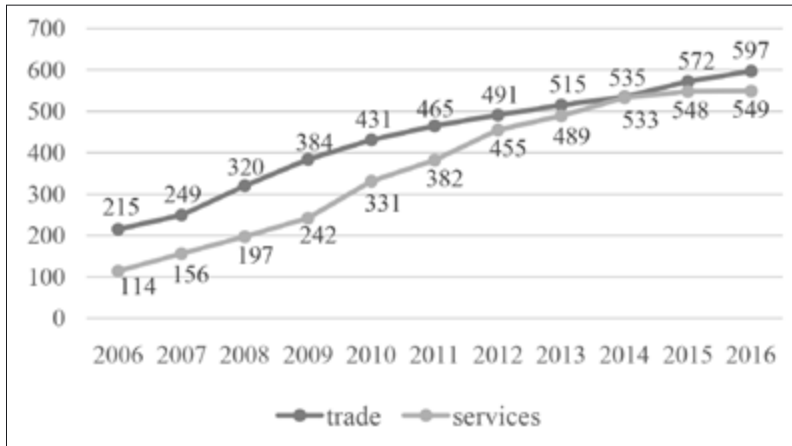
Source: Profit, 2017: 39

Analysis of changes in the number of franchise systems operating in Poland in trade and in services allows for concluding that the number of both types of systems was on the rise from 2006 onward. However, it can be seen that the rate of

growth in the number of systems in services outpaced the growth rate of the number of systems in trade. The systems operating in the services sector maintained a growth rate of above 10% until 2012, while the systems operating in trade reported growth dynamics below 10% from 2011 on. In 2016, the rate of growth in the number of systems operating in services stood at 4.37%, while the level of growth in the number of systems operating in trade stood at only 0.185%. It is worth noting that until 2014 systems operating in trade outnumbered those operating in the services sector (see Figure 6).



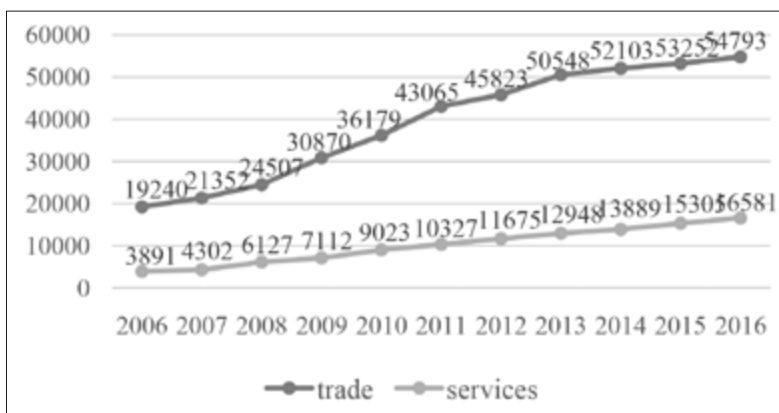
Figure 6. Number of franchise systems in Poland by industry, 2006-2016



Source: Author's own work based on *Raport o franczyzie w Polsce 2017*, Profit system, 2017

Regarding the change in the number of franchise units in the 2006-2016 period, it is notable that the number of franchise units invariably grew from 2006 on, both in the services and trade sectors. Starting from 2012, the number of franchise units in the services sector increased at a faster pace than the number of franchise units in trade. In 2016, the growth reached 8.34% in the services sector and 2.89% in trade. However, despite the rapid increase, there is a sizeable disparity between the total number of franchise units in each sector – at the end of 2016, there were 54,793 franchise units in trade and only 16,581 units in the services sector.

Figure 7. Number of franchise units in Poland by industry in 2006-2016



Source: Author's own work based on *Raport o franczyzie w Polsce 2017*, Profit system, 2017

Analyzing franchise systems in trade by industry, it can be stated that from 2006 onward, the majority of franchise systems were created in the clothing & footwear and in

the food & industrial products industries. In 2016, systems of the former and the latter industry accounted for 28.4% each of all the systems operating in Poland. From 2006 on, the largest number of systems was added in the food & industrial products industry, i.e. 99 systems were launched in the last 10 years. The second industry with the largest number of new systems is the clothing & footwear industry – 75 new systems established in 2006.



Analysis of franchises in the trade sector allows observing the trend in the number of franchise units in a particular industry over the years. The sector with the largest number of franchise units is the food & industrial products industry, which was the second industry in terms of the number of offered franchise systems. In 2016, this industry comprised as many as 68.65% of all franchise units operating in the market. Comparing the number of franchise units in 2016 and 2006, the largest increase in the number of franchise units can be seen in the aforementioned food & industrial products industry (in which 26,121 franchises were added since 2006) and in the household appliances, audio/video devices, IT & telecommunications industry (in which 2,894 franchise units were created since 2006).

To determine which industry is the most popular among franchisees, it is worthwhile to analyze the data in Table 2.

Table 2. Franchise systems in the trade sector in Poland in 2016

Industry	Number of systems	Number of units	Average number of outlets in the system	Number of franchisees	Average number of outlets per franchisee
Clothing & footwear	156	3,078	19.7	2,446	1.26
Children's articles	15	631	42.1	501	1.26
Food & industrial products	156	37,614	241.1	30,839	1.22
Sports requisites	13	169	13.0	157	1.08
Home & garden articles	54	2,221	41.1	1,955	1.14
Household appliances, audio/video devices, IT & telecommunications	44	4,676	106.3	3,696	1.27
Cosmetics, jewelry & gifts	60	2,586	43.1	2,143	1.21
Pharmacies & health care goods	39	2,439	62.5	2,184	1.12
Gas stations	12	1,379	114.9	1,238	1.11
Total	549	54,793	99.8	45,159	1.21

Source: Author's own work based on *Raport o franczyzie w Polsce 2017*, Profit system, 2017

Analysis of the data shows that in 2016 both the clothing & footwear and the food & industrial products industries offered 156 franchise systems each. Nevertheless, there were as many as 30,839 franchisees in the food & industrial products sector, and only 2,446 in the clothing & footwear sector. Therefore, it can be concluded that systems from the food & industrial products sector enjoy the most widespread popularity among franchisees. The largest average number of units in a system was also recorded in the food & industrial products sector, with an average of 241.1 franchise units per system. The smallest number of franchisees operate in the sports requisites industry. In this industry, there were only 157 franchisees at the end of 2016, and the average number of units per system was 13. Regarding the average number of units run by one franchisee, it was the highest in the clothing & footwear industry and in children's articles. In these industries, one franchisee operates on average of 1.26 franchise units. The smallest average number of units run by one franchisee was 1.08, reported in the sports requisites industry.

Worthy of note is that catering is the most popular services sector among franchisors. In the last 10 years, most systems available in the services sector were those from the catering industry. In 2016, systems from this industry accounted for 34.17% of all the systems in the services sector. Catering is also the industry to have reported the most substantial increase in systems against 2006. Compared to 2006, the number of concepts available in this industry went up by 169. Two other industries with the largest number of systems are services for individual clients (systems in this industry account for 15.58% of all the systems of the services sector) and education (systems in this industry represent 14.57% of all the systems in the services sector). As compared to 2006, the number of systems in these industries grew by 67 and 78, respectively.

Analysis of the number of franchise units in respective industries allows concluding that in the last ten years most units belonged to the services for individual client's sector. In 2016, 28.57%, i.e. 4,737 franchise units, were from the services for individual client's industry. For 10 years, catering was the second industry with the largest number of franchise units. In 2016, 3,705 units, i.e. 22.34% of all units in the services sector, operated in catering. Comparing the number of units in 2016 and 2006, a conclusion can be drawn that the most considerable increase in franchise units was noted in catering and in services for individual clients. The number of units in these industries grew by 2,863 and 3,194, respectively.

The largest number of franchisees pursue their business in services for individual clients (which is also the industry with the highest number of franchise units). However, it is worth paying attention to the catering and education industries. These two industries reported the highest average number of franchise outlets run by one franchisee.

Table 3. Franchise systems in services in Poland in 2016

Industry	Number of systems	Number of units	Average number of outlets in the system	Number of franchisees	Average number of outlets per franchisee
Catering	204	3,705	18.2	2,217	1.67
Services for individual clients	93	4,737	50.9	4,320	1.10
Beauty & fitness	58	1,150	19.8	1,050	1.10
Education	87	2,437	28.0	1,634	1.49
Finance & banking	37	1,919	51.9	1,684	1.14
Services for businesses and Internet	46	753	16.4	682	1.10
Legal & economic counselling	21	643	30.6	593	1.08
Tourism	26	745	28.7	630	1.18
Real estate	25	492	19.7	419	1.17
Total	597	16,581	27.8	13,229	1.25

Source: Author's own work based on *Raport o franczyzie w Polsce 2017*, Profit system, 2017

The largest number of multi-unit franchisees operate in the catering industry – in 2016 one franchisee ran an average of 1.67 franchise units. In the education industry, one franchisee operated 1.49 units on average.

3.3 LEGAL REGULATIONS GOVERNING FRANCHISING

As mentioned, due to historical circumstances related to the development of the legal order in the area of competition protection, the franchise agreement to this day lacks a clearly designated place in this order and continues to be classified as an innominate contract. A franchise agreement is sometimes compared to various civil law contracts, for example to a contract of mandate, contract for a specific task, lease agreement or agency contract.

There are two groups of legal norms governing cooperation within franchise networks. The first group includes regulations providing a constitutive basis for the franchise agreement itself, and the second one – legislation defining the organizational framework for the functioning of entities in the franchise relationship. Legal regulations are discussed in more detail in Table 4.

Table 4 Legislation providing a constitutive basis for franchising in Poland

Type of implications	Source of regulation	Implications for franchise
Legislation of constitutive nature	Civil Code	The Civil Code formulates the principle of freedom of contract, which provides the foundation for the legal functioning of franchise. It also contains the principles of contract law, specifying the manner and acceptable forms of concluding contracts. Franchise, as an obligating contract, is also subject to the provisions of Book III of the Civil Code regarding obligations.
	“Business Activity Law” Act	The Law defines the conditions for running a business and, above all, the procedure for starting a business (record-keeping proceedings and registration proceedings).
Legislation governing intellectual property	“Industrial Property Law” Act	The franchise agreement falls within the area of intellectual property since the essence of franchise cooperation is the transfer of trademarks, utility models, know-how, etc. These values are protected by virtue of the Act “Industrial Property Law”.
	Act on Combating Unfair Competition	This Act is of significance in the context of commercial confidentiality and proper identification of goods and businesses in franchise networks.
	Act on Copyright and Related Rights	A franchise license can be treated as a work, i.e. a manifestation of the creative activity of an individual. As such, it is subject to the protection specified in the Act on Copyright and Related Rights.
Legislation on the protection of competition	Act on Competition and Consumer Protection	This Act defines the procedure and principles of counteracting monopolistic practices and protects the interest of consumers. The Office of Competition and Consumer Protection decides, in the form of administrative decisions, on the compliance of franchise agreements with the law, examining them for the presence of the so-called permitted and prohibited clauses.
	Regulation of the Council of Ministers of 30 March 2011 on the exemption of certain types of vertical agreements from the prohibition of competition-restricting agreements	Regulation implemented directly under the Commission Regulation (EU) No. 330/2010 of 20 April 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices. The Regulation issued in 2011 ² regulates vertical agreements, i.e. agreements concluded by entrepreneurs at different levels of trade (not competing with each other). Franchise falls within the limits of this type of cooperation.

Source: Author’s work based on: B. Pokorska, *Przedsiębiorca w systemie franczyzowym*, PARP, Warszawa, 2004, pp. 20-26; M. Ziółkowska, *Franczyza-nowoczesny model rozwoju biznesu*, CeDeWu, Warszawa 2017, pp. 68-72.

² The 2011 Regulation replaced the previous Regulation of 19 November 2007 on the exemption of certain types of vertical agreements from the prohibition of competition-restricting agreements, which was effective until 31 May 2011. The new regulation will remain in force until 31 May 2023 (Official Journal “Dz.U.” of 2011, No. 81, item 441).

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The compliance of agreements concluded between economic entities in Poland is examined by the Office of Competition and Consumer Protection [UOKiK]. It is the central state administration authority which is responsible for pursuing anti-trust and consumer protection policy. As the anti-trust authority, the Office also ensures the compliance of franchise relationships with the competition law. The anti-trust law prohibits conclusion of anti-competitive agreements. However, once the agreement is found to aim to restrict competition, it should be checked whether it is subject to exemption from the prohibition of competition-restricting agreements.

There are following types of exemptions in this regard

- *De minimis* exemptions, resulting from small market share of entrepreneurs forming an agreement. The application of this exemption depends on the definition of the relevant market in which the parties to the agreement operate. The market is defined both in terms of products and geographical location. If the combined share of the parties to the agreement in the relevant market does not exceed 5% (if they are competitors) or 10% (if they are not competitors), then such agreements are exempted from the prohibition of competition-restricting agreements. This exemption is defined in detail by the Act of 16 February 2007 on Competition and Consumer Protection.
- Block exemptions, defined by the 2011 Regulation on vertical agreements. Agreements are exempted in two cases:
 - if the share held by the supplier and its capital group in the relevant market for the sale of goods covered by such an agreement does not exceed 30%,
 - if the share held by the buyer and its capital group in the relevant market for the purchase of goods covered by such an agreement does not exceed 30%.

However, the Regulation provides for several reservations to the above provisions, not mentioned in this paper, which are specified in detail in paragraph 9 of the document.

- Individual exemptions – they do not apply to a block of agreements but refer to a specific situation. They make it possible to accept any agreement as permitted, even despite its anti-competitive nature. For an agreement to be deemed permitted, specific conditions must be met. The agreement should
 - contribute to improving the production or distribution of goods or contribute to promoting technical or economic progress,
 - provide the buyer or the user with a fair share of resulting benefits,
 - not impose on the entrepreneur's concerned restrictions that are dispensable to the attainment of these objectives,

- not afford the entrepreneurs the possibility of eliminating competition in the relevant market about a substantial part of the products in question.

It should be emphasized that these exemptions do not apply to agreements that are clearly anti-competitive and represent the most serious breaches of the prohibition of competition-restricting agreements. Such agreements consist in

- fixing, directly or indirectly, prices and other conditions for the purchase or sale of goods (price collusions);
- limiting or controlling production or sale, also technical progress, or investment (quota agreements);
- dividing sale or purchase markets (division agreements);
- fixing terms and conditions of submitted tender bids in respect to the scope of works or prices between entrepreneurs placing bids, or between the participants and the organizer of the tender (collusive tendering).

From the point of view of franchise market participants, particularly significant are the violations of anti-trust laws regarding vertical agreements in three categories: prices, competition, and territory. In the first category, vertical agreements that stipulate fixed or minimum resale prices are violations of anti-trust legislation. Fixed prices prevent the contractor from applying higher or lower resale prices than those provided for in the agreement. Minimum prices, on the other hand, make it impossible for the contractor to lower the price below the level specified in the agreement. In both cases, the contractor loses the basic tool for shaping the competition policy in the market, i.e. setting prices. Fixing maximum prices does not, however, violate the prohibition of competition-restricting agreements. It does not prejudice the possibility for the contractor to apply for rebates or promotions. It is also allowed to use prices suggested in vertical agreements.

Another clause restricting competition, which is permitted pursuant to the Regulation of the Council of Ministers, concerns a ban on engaging in a competitive activity imposed by the franchisor on the franchisee. In its guidelines on vertical agreements, the European Commission specified that such a ban may apply throughout the term of the franchise agreement as well as after its termination (however, not longer than one year and only in the area where the franchisee has been using the franchise package).

The next strictly prohibited contractual clause is the one limiting the area or the range of entities (clients) to whom the buyer may sell goods covered by the agreement. According to this clause, a franchisee cannot be forbidden to provide services to a customer who passes by and enters the franchisee's shop, even though the customer does not actually live in the territory assigned to the franchisee on an exclusive basis. It is possible, however, to ban the franchisee from running the so-called "active sales" in a specific territory or among a specific group of clients reserved to the franchisor or another

er franchisee. It involves, for example, sending commercial leaflets to potential clients living outside the exclusive territory allocated to another franchisee.



The anti-trust legislation provides for the sanction of invalidity, typical of civil law, for the practices that violate competition. The President of the Office of Competition and Consumer Protection is authorized to impose financial penalties for the violation of the prohibition of entering into agreements that conflict with the anti-trust law. The maximum amount of the penalty is 10% of the annual revenue generated in the year preceding the year of penalty imposition. A catering company Sfinks Polska is an example of a franchisor that was sanctioned with a 10% penalty. According to the Office, Sfinks imposed fixed and minimum prices on franchisees.

4. FUTURE TRENDS

Since the launch of the first franchise networks, the Polish franchise market has been growing at a considerable rate. According to forecasts, the year 2017 ended with over 1,200 franchise systems and 74,000 franchise units in Poland. However, there is a certain limit of market saturation with franchise relationships. This is mainly due to objective factors, such as lack of suitable franchisees or profitable locations, as well as growing competition and market saturation. The Polish market will reach significant saturation within a few years, and then the existing concepts will be revised. Profitable units belonging to well-organized franchise systems will enjoy a stable position in the market. Changes already taking place in countries with a long history of franchising include the strengthening of the franchisor-franchisee relationship, a growing concern for franchisees and their financial performance, effective exchange of knowledge at the franchisor-franchisee level and among franchisees. Franchisors offer generous franchise packages (financing, assistance) that encourage potential franchisees to cooperate. To attract prospective franchisees, systems operating in Poland will also have to come up with comprehensive franchise packages. Thus, franchisors will refine the formats of cooperation with franchisees, and the concepts that will meet the needs of customers, at the same time ensuring profitability for both franchisees and franchisors, will survive in the market. Franchisors will enrich franchise packages by offering franchisees increasingly convenient terms of cooperation. Following the example of countries with established franchise ecosystems, franchisors will provide





system, between the franchisor and franchisee, will also enhance, and franchisors will try to draw innovative ideas from franchisees who have daily contact with clients.

In the world, franchise relationships have been developing for much longer than in Poland and, therefore, ideas arise for the use of licenses for well-trying and tested businesses in various industries and models of operation. In Poland, they are just being implemented or are still the future for the domestic market. In the future, the knowledge about franchise relationships will substantially expand, business institutions pursuing initiatives to support franchising will develop, and the role of educational centers will strengthen. These trends are associated with an increasing awareness of franchise in bank offers, which will contribute to the further development of these relationships.

Franchise relationships will emerge in new industries, as they have in the United States of America or in Western Europe. They will be present in medical services, social welfare, "green businesses", private ATM networks, vending machines, or logistic services.

As in Western countries, in the future, a growing number of franchisees will have several units of the same system or of different non-competing franchise systems. In countries with an established position of franchise relationships, franchisees increasingly frequently capitalize on their business experience and familiarity with the local market and opt for multi-concept franchises, where they operate units of different, non-competing systems. Such franchisees simultaneously run fast food restaurants, hotels, gas stations and provide other services for individual and business clients, benefitting from their knowledge of franchising and business experience, as well as from economies of scale.

In the United States of America, which is the most developed franchise market, the mobile franchise is growing dynamically. It is appearing in new industries, offering services and products like lawn mowing, pet grooming, care for the elderly, and sale of flowers, directly at home or office.

Also, the profile of franchisees will evolve. More frequently, system partners are persons with professional experience. In the USA, most new franchisees are former corporate employees with adequate financial resources and several years of experience of working in a large organization. Franchising is also becoming a way leading to the professional fulfillment of women, allowing them to run an independent business. Franchisors in Poland are also beginning to see the role and importance of students as new prospective franchisees.

financial and consulting support during the opening of a franchise unit, assistance in hiring employees and in the ongoing operation of the unit. It should also be noted that the role of communication within the

The trends indicated above will begin to emerge and play an increasingly important role in the Polish market which has been dynamically developing for many years, even during the period of economic stagnation, and will continue to gain in importance.

5. CONCLUSIONS

Franchising in its contemporary form was initially developed in the American market, but owing to its universality, this model has gained supporters among entrepreneurs all over the world. In Poland, both the number of franchise systems and the number of participants in existing networks are growing every year, which suggests that although the Polish franchise market is slowly reaching the stage of maturity, it still has a great potential for development. In Europe, however, a lack of appropriate franchisees and high market saturation with franchise concepts are observed. European trends are reflected in the Polish market both in terms of quantity and quality. As in the case of mature European markets (Germany, France, Great Britain), there is a growing trend in Poland for domestic systems to expand internationally, franchise-based cooperation is becoming increasingly popular in new industries (health, care for the elderly) and in smaller undertakings such as online business or home services. Summing up, it can be concluded that the Polish franchise market is getting increasingly mature, as evidenced both by stabilizing growth rate of the number of networks and an increasing number of Polish concepts deciding to expand abroad.



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