



Bird & Bird & Internationalising your Franchise

Webinar Series Part 2: China and Australia

Wednesday 13 October

Introduction



Lourdes Ayala

Partner, Spain

Head of Corporate and M&A

Tel: +347906000

lourdes.ayala@twobirds.com



Lourdes is head of the corporate and M&A team in the Madrid office and has combined expertise in franchising/corporate and commercial matters having assisted many clients in their internationalization.

Diana Sendagorta

Senior Consultant, Spain

Franchising and Corporate and M&A

Tel: +347906000

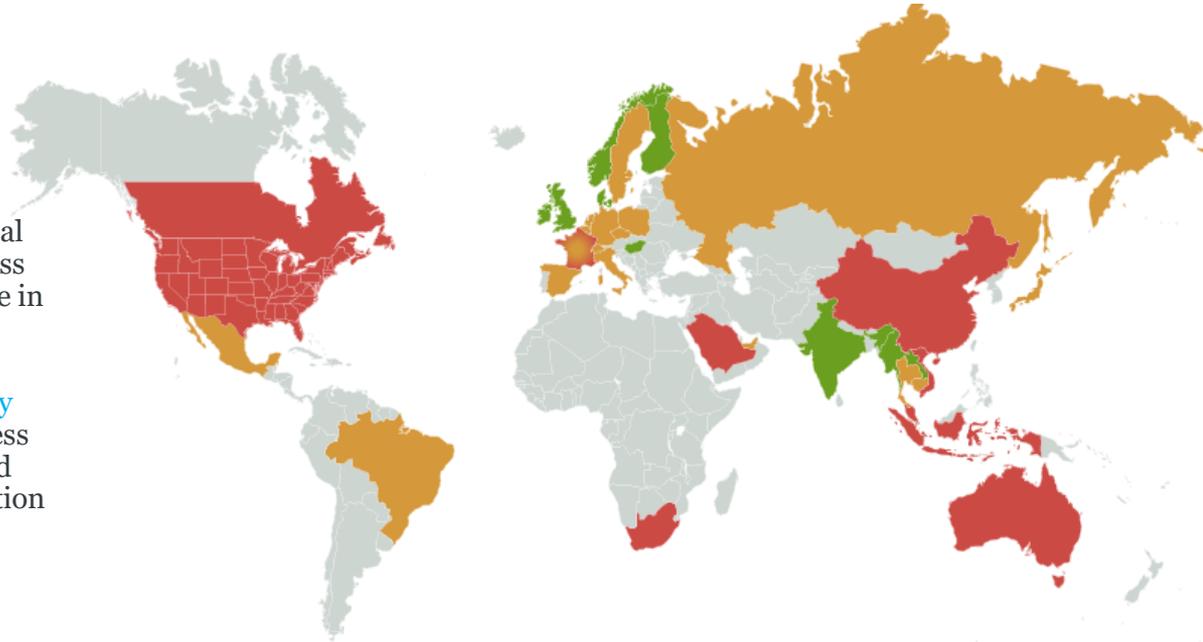
diana.sendagorta@twobirds.com



Diana is part of the corporate and M&A team in the Madrid office and has extensive experience in advising franchisors and franchisees in their local and international expansion.

Bird&Bird & International Franchising

- With more than 1,300 lawyers across a network of [29 offices in Europe, the Middle East and Asia Pacific](#), Bird & Bird is able to provide growing businesses with on the ground support through our international offices.
- With [franchise experts in each of our international offices](#), together with our global network of specialist franchise counsel across the Americas and Africa, we can you operate in a range of sectors to achieve their growth objectives via franchising or distribution.
- We also work with Bird & Bird's [consultancy arm, OXYGY](#), to support clients with business projects that require a range of skills beyond pure legal issues including internationalisation support.
- You can access our [online international franchise laws tracker](#), which provides a comparison of franchise laws across the jurisdictions in which we have offices or work with local franchising experts.



[Access online our International Franchise Laws Tracker](#)

What you need to consider

- How to structure your franchise or distribution model
- Whether you may need a sophisticated hybrid strategies to support your global expansion
- Whether you may need the drafting and negotiation of core franchise, distribution and legal documentation
- What are the international franchise market entry regulations applicable
- Whether you may need support with ongoing franchise and distribution network management
- Whether you need exit planning as well as strategic acquisitions and disposals
- How to implement risk management including how to avoid and handle disputes

You may also need to take into consideration other key related areas such as:

- Brand management
- Advertising and social media
- Use of technology and data
- Corporate structures
- Competition
- E-commerce and m-commerce
- Employment and immigration
- Real estate
- Tax matters

Our webinar series

Welcome to our webinar series in partnership with the Spanish Association of Franchisors:

UK, The Netherlands & Poland: Wednesday 15 September

Australia & China: Wednesday 13 October

Italy, France & Morocco: Wednesday 27 October

India & Middle East: Thursday 11 November



Today's speakers

Sven-Michael Werner

Partner, China

Corporate and M&A

Tel: +862123121300

svenmichael.werner@twobirds.com



Sven-Michael is part of the Franchising and Corporate teams in our Shanghai office and has extensive experience in helping clients structure partnerships with Chinese businesses via franchising, licensing and distribution.

Lynne Lewis

Partner, Australia

Intellectual Property

Tel: +61292269873

lynne.lewis@twobirds.com



Lynne is part of the Franchising and Intellectual Property teams in our Sydney office and has extensive experience in advising clients on the complexities of franchise law and the interplay of commercial, consumer and legal issues.

Franchising in China



Franchising in China

Franchising regulation

- Franchising is highly regulated in China, particularly for foreign franchisors
- Key regulations:
 - Administrative Regulations on Commercial Franchising
 - Administrative Measures for the Record Filing of Commercial Franchises
 - Measures for the Administration of Information Disclosure of Commercial Franchises
- Record filing requirement
- Information disclosure requirement
- Franchisor requirements
- Content requirements
- 2+ 2 Rule

Franchising in China

Franchising regulation

- Distributorship plus trademark license as alternative?
- Definition of "Franchise":
 - Contractual
 - Authorization of franchisee to use operational resources of franchisor
 - In accordance with franchisor's standardized uniform visual image and business and management model
 - Against fee payable to franchisor.

Franchising in China

Other material laws

- Trademark registration
- Data Protection
 - Consumer Protection Law in 2013
 - Cybersecurity Law in 2017
 - E-Commerce Law in 2019
 - Personal Information Protection Law in 2021
- Internet related Telecoms Regulations
 - ICP filings or approvals?
- Anti-Unfair Competition Law and Anti-Monopoly Law

Franchising in China

What to expect

- More data protection
- Industry specific regulation can destroy entire sectors
- Stronger local competition

- No massive improvements in relation to formal enforcement of rights – "leverage programme" is needed to protect brand interest

Franchising in Australia



Franchising in Australia

Regulatory Requirements – Franchising Code of Conduct

- **Disclosure requirements**
- **Cooling Off periods**
- **Notable contract provisions**
- **Alternative Dispute Resolution and jurisdiction for Court proceedings**

Franchising in Australia

Disclosure Document Requirements

- **Prescribed Form**
- **Must be provided together with:**
 - Copy of the draft franchise agreement
 - Key Fact Sheet
 - Information Statement
 - Copy of the Franchising Code of Conduct
- **14 days before entering into the franchise agreement/ payment**
- **14 days before consenting to transfer**
- **Must be updated yearly**

Franchising in Australia

Notable contract provisions

- **Cooling off period – 14 days**
- **Termination by franchisor**
- **Termination by franchisee**
- **Restraints of trade**
- **Releases**
- **Statutory consumer guarantees**

Franchising in Australia

Dispute resolution

- **Compulsory ADR clause**
- **Arbitration clause**
- **Jurisdiction**
- **Multi-party disputes**

Thank you & Bird & Bird

Follow up with:

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Tel: +347906000

lourdes.ayala@twobirds

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Senior Consultant, Spain

Tel: +347906000

diana.sendagorta@twobirds

Upcoming webinars in the series:

Italy, France & Morocco: Wednesday 27 October

India & Middle East: Thursday 11 November

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