HOW TO EFFECTIVELY EVALUATE THE OPPORTUNITIES AND RISKS FOR INTERNATIONAL EXPANSION

William Edwards, CFE
EGS LLC
CEO

Jeffrey A. Brimer, CFE
Faegre Baker Daniels LLP
Counsel

Steve Devine
Johnny Rockets®
President, International Division
WHY TAKE YOUR FRANCHISE GLOBAL

- New sources of revenue
- Become less dependent on your home market
- Increase brand value for all stakeholders
- Enter markets where competition may be less
- Leverage your existing intellectual property and technology
Most Desired Franchises

- Automotive – After market products and services
- Education – Children’s, management, coaching
- Commercial Services - business services, facilities management, cleaning, handyman, security
- Personal Services – Handyman, maid, mobile, senior care, personal care
- Specialty Food & Retail – Special clothing brands, theme brands, ethnic foods, well known food brands, healthy food brands
HOT FRANCHISE MARKETS

- China – Focused on 1st and 2nd Tier Cities
- India – Strong desire for food and retail brands
- The Middle East – specialty food, retail, personal service
- Other Asia - Indonesia, Malaysia, Thailand, Viet Nam
- Latin America – Central America, Chile, Colombia, Ecuador, Peru
- Markets to watch – Canada, United Kingdom, Brazil, Eastern Europe and Turkey
# GLOBALVUE™ - COMPARING COUNTRIES

<table>
<thead>
<tr>
<th>Country/Region</th>
<th>Expected 2013 GDP Growth</th>
<th>Market Size (Customers)</th>
<th>Legal Concerns For Intl. Brands</th>
<th>Barriers To Foreign Brand Entry</th>
<th>Political And Economic Risk</th>
<th>Overall Country Ranking</th>
</tr>
</thead>
<tbody>
<tr>
<td>China</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2.5</td>
</tr>
<tr>
<td>Chile</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>2.5</td>
</tr>
<tr>
<td>Colombia</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2.5</td>
</tr>
<tr>
<td>India</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>2</td>
<td>2.5</td>
</tr>
<tr>
<td>Singapore</td>
<td>1</td>
<td>4</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>2.5</td>
</tr>
<tr>
<td>Indonesia</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td>3</td>
<td>2</td>
<td>2.5</td>
</tr>
<tr>
<td>The Philippines</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>2</td>
<td>2.5</td>
</tr>
<tr>
<td>Viet Nam</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>4</td>
<td>2</td>
<td>2.5</td>
</tr>
<tr>
<td>Australia</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>2.5</td>
</tr>
<tr>
<td>Brazil</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>1</td>
<td>2.5</td>
</tr>
<tr>
<td>Mexico</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2.5</td>
</tr>
<tr>
<td>South Africa</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2.5</td>
</tr>
<tr>
<td>South Korea</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>1</td>
<td>2</td>
<td>2.5</td>
</tr>
<tr>
<td>Middle East Region/GCC</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>2</td>
<td>2.5</td>
</tr>
<tr>
<td>Central Europe</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>2.5</td>
</tr>
<tr>
<td>Thailand</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>2.5</td>
</tr>
<tr>
<td>Turkey</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>2</td>
<td>2.5</td>
</tr>
<tr>
<td>Malaysia</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>3</td>
<td>2</td>
<td>2.5</td>
</tr>
<tr>
<td>Russia (net of oil &amp; gas impact)</td>
<td>2</td>
<td>2</td>
<td>4</td>
<td>3</td>
<td>3</td>
<td>2.5</td>
</tr>
<tr>
<td>Germany</td>
<td>3</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>2.5</td>
</tr>
<tr>
<td>Japan</td>
<td>3</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>2.5</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>3</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>2.5</td>
</tr>
<tr>
<td>USA</td>
<td>3</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>2.5</td>
</tr>
<tr>
<td>Canada</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>2.5</td>
</tr>
<tr>
<td>New Zealand</td>
<td>3</td>
<td>4</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2.5</td>
</tr>
<tr>
<td>Spain</td>
<td>4</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>2.5</td>
</tr>
<tr>
<td>Ireland</td>
<td>4</td>
<td>4</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2.5</td>
</tr>
</tbody>
</table>

Country Ranking: 1 is good, 2.5 is fair, 4 is worst - Sorted on GDP growth, a measure of 2013 investment

Sources: ‘The Economist’, EIU, Heritage Foundation, World Bank, Fraser Institute, WEF, EGS GlobalTeam™ in 25 countries
COUNTRY FACTORS TO CONSIDER

- Rule of Law
- Country Stability
- Intellectual Property Protection
- Good GDP Growth = Investors
- Clear Market Differentiation
- Potential to Achieve An Acceptable ROI
IS YOUR COMPANY READY??

- Is your domestic franchising program successful?
  - Are you great at franchising?
- Is there a demand for your product?
  - Can you adapt to new cultures?
- Can you develop a supply chain?
  - Cost effectively?
  - Local Sourcing?
DEVELOP A GROWTH STRATEGY

• It is a great big world, **WHERE** will you start and **WHY** will you start there?
  – Concentric Circles Strategy
  – BRIC Strategy
  – Next Eleven Strategy
    • Mexico – Korea – Philippines – Indonesia – Vietnam - Bangladesh - Pakistan – Turkey – Egypt – Nigeria - Iran
  – Shotgun (Opportunistic) Strategy
IDENTIFY INITIAL TARGET MARKETS

• Select the markets that follow your strategy and...
  – RESEARCH – RESEARCH – RESEARCH
  • On the ground visits
  • Franchise Expo’s
  • US Commercial Service Country Guides
  • CIA.gov
  • Euromonitor
  • ICSC
  • Real Estate Developers
IDENTIFY THE RISKS

– Is your brand acceptable / adaptable in a foreign culture?
– Is there an existing supply chain?
– Can you repatriate cash from the market?
– Is there available (and AFFORDABLE) real estate?
– Are there legal hurdles to market entry?

– **Can you find the right partner?**

Patience – Patience – Patience – Patience!
BUILD SALES AND SUPPORT INFRASTRUCTURE

• It takes a BRAND CHAMPION to sell
  – Knowledgeable about your business
  – Passionate about what you do
  – Invested in the long term success

• It takes a BRAND CHAMPION to support
  – Knowledgeable about your business
  – Passionate about what you do
  – Invested in the long term success
LESSONS LEARNED

• Russia – RED TAPE
• Brazil & Turkey – TRADEMARKS
• Korea – PARTNER SELECTION
• Philippines – BE FLEXIBLE
• Nigeria – EMERGING MARKETS
• Taiwan – EXPERIENCE COUNTS
• China - PATIENCE
LEGAL ISSUES

• Overview
  – Initial Legal Considerations
  – Structuring the International Relationships
  – Overview of International Disclosure and Registration Requirements
INITIAL LEGAL CONSIDERATIONS

• Proactively and Aggressively Protect Your IP
  • Register trademarks and domain names early!
  • Register trademarks in the proper classifications

• Prepare a 3 to 5 Year Budget For:
  • Experienced local counsel
  • Initial Research into Local Law Compliance
  • Preparation and Negotiation of Agreement/Disclosure/Registration Documents
  • Plan for contingencies
• Additional Considerations
  – Identify what role you want to have in the relationship.
  – Identify all legal issues.
  – Plan your exit strategy.
  – Bend to local custom, but don’t “break”.
  – Be practical, but understand the formalities and technicalities.
• Types of International Agreements
  – Unit Agreement
  – Area Development (License) Agreement
  – Master Franchise Agreement
  – Joint Ventures
• Unit Agreement
  – Individual agreements with franchisees for each location, similar to U.S. individual unit franchising.
  – Control is more direct
  – Requires greater levels of local support from Franchisor
  – Typically used by larger, mature franchisors with units that require significant initial investment (e.g., hotels)
STRUCTURING INTERNATIONAL RELATIONSHIPS

• Area Development (License) Agreement
  – Grants development rights to an entire country or large region where the Area Developer will own and operate the units
  – Licenses the rights to use the Franchisor’s intellectual property and System,
  – Requires Area Developer to commit to a Development Schedule
  – Addresses trademark use, development rights and obligations, fee splits, and responsibilities and obligations of Franchisor and Area Developer
• **Master Franchise**
  
  – Grants development rights to a Master Franchisee to operate its own locations and grant unit subfranchises  
  – Can provide for more rapid expansion at a lower cost to Franchisor  
  – Addresses trademark use, development rights and obligations, fee splits, and responsibilities and obligations of Franchisor, Master Franchisee and Subfranchisees
STRUCTURING INTERNATIONAL RELATIONSHIPS

• Joint Ventures
  – Franchisor becomes an equity owner along with Master Franchisee or Area Developer
  – Requires Joint Venture Agreement and a Master Franchise or Area Development Agreement
  – Form of organization requires consideration of local and U.S. law
  – Tax issues are critical
  – May require Franchisor to assume responsibility for operations upon termination or expiration
Disclosure Laws

- Obligation of Franchisor to provide a disclosure document prior to entering into agreement or accepting money
- Similar to FTC Rule
- Disclosure items and format are country-specific
- Common law vs. Civil law
FRANCHISE DISCLOSURE, REGISTRATION & RELATIONSHIP LAWS

• Registration Laws
  – Requirement to register the franchise in a country
  – Can be before or after the franchise sale

• Relationship Laws
  – Affect the terms of the agreement
  – Covers length of term, good faith requirements, purchase obligations, notice requirements, dispute resolution
FRANCHISE DISCLOSURE, REGISTRATION & RELATIONSHIP LAWS

- Australia
- Belgium
- Brazil
- Canada (Alberta, Manitoba, Ontario, New Brunswick, and Prince Edward Island)
- China
- France
- Indonesia
- Italy
- Japan
- Kazakhstan
- Kuwait
- Lithuania
- Macau
- Malaysia
- Mexico
- Romania
- Russia
- Spain
- South Africa
- South Korea
- Sweden
- Taiwan
- Tunisia
- Venezuela
- Vietnam
• Protecting Intellectual Property
  – *Patents*: Adopt a selective, strategic international registration policy
  – *Trademarks*: File as early as possible!
    • File in English, local language and transliterations
    • Control ownership and registration
    • First To Use vs. First To File
    • EU Applications
    • Madrid Protocol
OTHER LEGAL ISSUES

• Protecting Intellectual Property
  – Trade Secrets: Minimize risk of misappropriation by:
    • Gradually phase in the transfer of proprietary information
    • Limit access
    • Require confidentiality and non-compete commitments
    • Maintain low turnover
    • Systematically and regularly
    • Develop a reliable and workable protection system
    • Build positive relationships and loyalty
    • Develop strong relationships with important regulatory agencies
OTHER LEGAL ISSUES

- Taxes
  - Withholding taxes – Paid to target country by franchisee
    - Income Tax Treaties – Determine withholding tax rates on types of revenue
  - Foreign Tax Credits
  - Tax on foreign subsidiaries
  - Transfer pricing
• Compliance with US Laws Affecting International Business

  – Foreign Corrupt Practices Act – Prohibits making any corrupt payments "to any person" knowing that all or a portion of such payment is later going to be made to a foreign official for the purpose of influencing an act or decision of that official in order to assist in obtaining or retaining business.

  – USA PATRIOT Act – Prohibits US companies from doing business with persons or entities who are Specially Designated Nationals.

  – EXPORT – IMPORT CONTROLS – Restricts products that can be sold or licensed to non-US parties.
IFA
INTERNATIONAL FRANCHISE ASSOCIATION

Franchising
Building local businesses, one opportunity at a time.