

## To “e” or Not to “e”: Using Electronic Communication in Franchise Sales

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Computer technology offers exciting growth opportunities for franchise companies. Internet advertising promises to reach the greatest number of people at a nominal per capita cost and enables franchisors to conduct market research and immediately screen franchise candidates online. Delivering disclosure documents in electronic format, or permitting prospective franchisees to “retrieve” electronic disclosure documents from a Web site, can ensure delivery of the document while the prospect is still “hot,” and greatly reduces the printing and postage costs associated with delivery of paper documents. Computer technology also can facilitate the disclosure process by unifying sales presentations and facilitating communication between franchisor representatives and prospective franchisees.

Internet offers, however must be approached carefully. Without appropriate cautionary language, unrestricted offers can violate state laws requiring the franchise to be registered prior to its offer or sale. When transmitting documents in electronic format, franchisors must ensure as they would had they received a paper document. To ensure compliance with state and federal disclosure requirements, franchisors must provide prospects appropriate information concerning the form and substance of the disclosure document, and obtain adequate evidence that the information has been received by the intended recipient.

### **Franchising on the Web**

To reach the growing number of company savvy entrepreneurs, franchisors are devoting more resources to online advertising. This includes not only developing company Web sites (which also may contain information about goods and services offered by the company and/or its franchisees), but more and more it involves placing highly targeted Internet advertising through online media such as the network of sites maintained by Franchise Solutions ([www.franchise.hub.com](http://www.franchise.hub.com)) including Franchise Solutions ([www.franchisesolutions.com](http://www.franchisesolutions.com)), USA Today ([www.usatoday.fransol.com](http://www.usatoday.fransol.com)), Inc.com ([www.fransol.com](http://www.fransol.com)) and the Franchise and Business Opportunity Center @ Yahoo! ([www.yahoo.fransol.com](http://www.yahoo.fransol.com)).

Other Internet showcases include IFA’s Franchise Opportunities Guide Online ([www.franchise.org](http://www.franchise.org)), BISON ([www.bison1.com](http://www.bison1.com)), The Franchise Handbook On-Line ([www.franchise1.com](http://www.franchise1.com)), Be the Boss ([www.betheboss.com](http://www.betheboss.com)), Centercourt by IFX

International, Inc. (www.centercourt.com), and Entrepreneur.com (www.entrepreneurmag.com).

Like all franchise offers, however, Internet offers must comply with state franchise laws, and an unrestricted offer can violate state law to the extent it is received in a state requiring registration and in which the franchise is not properly registered. A handful of the “registration states” currently exempt Internet sales from registration requirements so long as (1) the franchise is not being offered to residents of the state; (2) the offer is not directed to any person in the state; and (3) no franchise is sold in the state until the offering has been registered and the prospect has received appropriate disclosure.

Including appropriate cautionary language makes clear the offer is restricted to states that do not require registration of in which the franchise is properly registered. Franchisors also can use technical gateways to restrict the scope of an offer, and to ensure that Internet receive appropriate state required disclosure as determined by the state in which they reside and the state from which they can access the site at the time of disclosure.

### **Form and Delivery of Electronic Disclosure Documents**

Franchisors may provide electronic verifications of disclosure documents provided that certain conditions are met. In October 1999, the Federal Trade Commission announced plans to amend its franchise disclosure rule to permit the use of electronic disclosure documents (for example, on CD-ROM, computer disk, or posted on a Web site). The proposed amendment prohibits use of audio, video, graphics, pop-up screens or scrolling messages (which could be used to highlight favorable, or obscure less favorable, disclosure information), or any other electronic device (such as external hyperlinks) that would impede a prospect’s ability to review all portions of the disclosure document online or to preserve the text as a single document. It permits, however, use of electronic devices that would assist prospective franchisee to navigate through the disclosure document, such as internal hyperlinks, scroll bars, and search functions.

The proposed amendment also permits the delivery of disclosure documents in electronic format if (1) the prospective franchisee has consented to receiving disclosure in electronic format after being informed as to the medium of the disclosure, (such as computer disk, CD-ROM, e-mail, or Internet) and any specific applications necessary to view the disclosures (such as Windows 95, or DOS, or a particular Internet browser), and (2) the prospect is given the right to revoke acceptance of the electronic document in favor of a paper copy up until the time of sale.

Electronic delivery must be accompanied by delivery of a paper summary document containing a cover page (informing prospects that they have the right to receive and review pre-sale disclosure, reflecting the franchisor’s Internet addresses, and providing instruction for obtaining a paper version), the disclosure document’s table of contents (notifying prospects that the electronic document contains information such as the franchisor’s litigation history, financial performance information and statistics on

franchisees in the system), and the Item 23 receipt page (providing evidence of receipt). The proposed amendment allows prospects to acknowledge receipt of the disclosure document either by signing the paper receipt incorporated in the summary document, downloading and signing a paper copy of the receipt attached to the disclosure document, or signing and returning the receipt electronically.

### **Using Electronic Media in Sales Presentations**

Electronic media also can enhance the disclosure process by unifying franchise sales presentations and facilitating open communication between franchisor representatives and prospective franchisees. For example, last year, 7-Eleven, Inc., franchisor of 7-Eleven convenience stores, replaced its video sales presentation with an interactive CD-ROM program that clarifies specific information contained in 7-Eleven's offering circular. The presentation begins with a video introduction by Clark Matthews, the company's president and CEO, and is followed by a series of informational segments ending with interactive tests designed to test the viewer's understanding of the information provided in the segment.

7-Eleven Franchise Recruiting Manager John Steczynski prefers the CD-ROM presentation to both the video sales presentation and the traditional "flip book" presentation that is replaced because it enables him to provide specific information in a consistent format to every prospective franchisee. The CD-ROM program is educational and informative to both 7-Eleven representatives and prospective franchisees. It allows the applicant to move through the presentation, segment-by-segment, at his or her own pace. At the same time, it gives 7-Eleven representatives an opportunity to identify areas that require explanation or clarification. According to Steczynski, "the CD-ROM presentation is the next step in providing an efficient and effective approach to sales presentations in the 'high tech' society in which we live."

### **The Media is Not the Message**

Using computer technology to offer and sell franchises promises to increase growth opportunities, decrease costs, and foster communication between franchisors and potential franchise candidates. When using new technology, however, franchisors should apply the same standards that govern traditional methods of communication and keep in mind that it is the substance of the communication – and not the media which it is transmitted – that is paramount.