



Franchise Agreements in Thailand: Nonrefundable Fees and Purchasing Conditions

Thailand does not currently have a dedicated Franchise Act. Accordingly, the legality of franchise agreements is assessed under general laws, including the Civil and Commercial Code, the Trademark Act B.E. 2534 (1991) (as amended), and the Unfair Contract Terms Act B.E. 2530 (1997). Thailand's legal framework follows a freedom-of-contract principle, allowing parties broad flexibility in negotiating terms, provided they do not contravene law, public order, or good morals. However, issues such as nonrefundable franchise fees and mandatory purchasing conditions can raise questions of fairness under the Trade Competition Act B.E. 2560 (2017), as interpreted by the Trade Competition Commission of Thailand (TCCT).

In this regard, Franchise fees are typically paid upfront and are often labeled “nonrefundable,” which can create disputes when the franchisor ceases operations or the relationship ends prematurely. In a recent case, a franchisee sought a refund after the franchisor shut down its business for financial reasons. The TCCT found that the franchisor's cessation was commercially justified and that both parties had voluntarily agreed to the nonrefundable clause. Therefore, the clause was not deemed an unfair trade practice, and no violation of the Trade Competition Act was found.

This decision reaffirms that clear, explicit contract terms—entered into freely and supported by legitimate business rationale—remain enforceable, even if unfavorable to one party. It also underscores the TCCT's deference to contractual autonomy in the absence of deceptive or coercive conduct.

Regarding the purchasing requirements, such as tying or bundling arrangements, they are generally viewed with caution under Thai competition law. However, in certain franchise contexts, such conditions may be permissible when necessary to protect brand integrity and product quality.

For example, in a case involving a bubble tea franchise, the franchisor required franchisees to purchase all tea products (green, Thai, and Taiwanese) exclusively from the franchisor. When a franchisee failed to comply, the franchisor refused further sales of certain products. In this regard, the TCCT held that the franchisor's actions were not unfair, as the purchasing condition served a legitimate purpose—ensuring consistency and quality control across franchise outlets.

This demonstrates that purchasing restrictions can be justified if they are clearly stated in the agreement, reasonably necessary for maintaining brand or product standards, and are applied in good faith rather than to restrict market competition.