

How to protect the continuity of franchises



Every franchise is of the utmost importance to a franchisor. It is therefore vital that a franchisor should do everything in its power to ensure the continuity of every franchise – also when a franchisee passes on.

A last will and testament as a personal succession plan is an important legal document that provides essential details regarding what should happen to the assets you have built up over time when you die. The purpose of this legal document is to realise your intentions. In so doing, it affords those who are left behind the opportunity to benefit from your hard work and experience the true value thereof.

As a will is a legal document, it is crucial that it should be structured correctly and reviewed on a regular basis as circumstances change. It should also be dated, signed and – more importantly – kept in a safe place. If these important elements are not in place it will be difficult to realise your wishes and specific intentions.

The reality, however, is that many people today die intestate, i.e. without a (valid) will. This may cause family rifts and leave those left behind with the job of cleaning up the mess, covering the unexpected costs and picking up the pieces. For an executor to finalise the estate in such circumstances could become a lengthy, time-consuming and at times an uncomfortable process.

This reality is even more evident when we engage with business owners (**or in this case franchisees**). According to Sanlam's internal research, two-thirds of business owners do not have the basic business continuity protection measures like a "business will" (buy and sell arrangement) in place, and of the third that do, only 10% review their "business will" on a regular basis.

So the questions are... do you as business owner have a will as a personal succession plan and do you also have a "business will"? If you do, has it been structured correctly; when last was it reviewed; is it valid; is it signed; do you know where it is kept? This is crucial, because you've built your business or your share of the business with your blood, sweat and tears and your intention is for your loved ones or dependants to benefit from your hard work.

Not having a "business will" and the associated insurance could, however, result in the following potential challenges:

- 01** • Your co-owners might not have the necessary funds to purchase your share in the business from your estate.
- 02** • Your spouse might not want to or may be unable to participate in the business, which means that he/she is left at the mercy of your business partners.
- 03** • Your family might not be able to realise the true value of your share or interest in the business as the valuations of your share could be disputed in your absence.
- 04** • Disputes are usually expensive, drawn out over long periods of time and distracting, especially in hard economic times when money matters are usually tight.
- 05** • The executor might want to sell the owner's interest in the business to the highest bidder, opening up the business to a foreigner(s).



- 06** • The continued existence of the business could be jeopardised, because of a lack of focus and ongoing fights with the remaining owners.
- 07** • Your share or interest in the business could ultimately be sold for a value far below the fair market value.
- 08** • Your business partners could channel all new contracts to a new business, reducing the value of your interest in the old business over time to almost nothing.

Because there is no “business will”, you ultimately have no influence on or say in what should happen to your interest in the business. Your intentions cannot be realised. All of this happens while your family struggles to make ends meet and at the same time come to terms with their untimely loss.

A valid, up-to-date and signed “business will” (buy and sell agreement) and associated insurance cover are the perfect solution to mitigate the risks discussed above. It allows you, the business owner, to make the necessary provision not only for your untimely death, but also for an unplanned event like permanent disability.

The primary purpose of the “business will” is to provide the surviving co-owner(s) with the necessary funds to purchase your interest in the business, thereby protecting their interests and yours, allowing your family to enjoy the true value of your efforts. The solution provides a smooth exit in the event of your death or permanent disability. This legal agreement, together with its funding mechanism, not only ensures continuity of the business in the event of your death or permanent disability, but also strengthens the business structure.

To help your franchisees implement this very important business continuity measure, contact:
Sanlam Business Market at **0860 100 539**,
email sme@sanlam.co.za or
contact your Sanlam adviser or broker.

Be on the lookout for Article 2!

