

**Power and control in the franchise network:
An investigation of ex-franchisees and brand piracy**

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Abstract

This research considers the issue of franchisees who exit the franchise system in order to continue operating independently. The literature regarding incentives for entering franchising is reviewed in an attempt to reveal why franchisees become dissatisfied and leave. The use of power by the franchisor and its relationship to brand piracy by franchisees is explored. Franchisors and their current and former franchisees are interviewed to uncover insights into this phenomenon. Explanations concerning the effectiveness of contractual remedies, dissatisfaction with the franchise, level of dependence and expectations in the relationship, and franchisor-franchisee goal incongruence are proposed.

Keywords: franchising, power, brand piracy, exploratory research

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Introduction

A great deal of attention has been devoted to the reasons why people choose franchising, rather than an independent operation, as a means of entering business but little attention has been given to why franchisees exit a system. Hence, the focus of the current study is to explore why they exit franchising, and in particular, *why some franchisees continue operating in a similar business after leaving the system*, thereby pirating the franchisor's brand.

Franchise agreements are normally offered for either a five- or ten-year period but not all franchisees commit for the full term as circumstances may change. The founder of one of Australia's largest franchise systems, Jim's Group, notes that some of his franchisees find working conditions harder than expected and depart after only one or two years . Moreover, a minority of franchisees may leave their franchise system but continue operating a similar business independently, possibly in competition with their former franchisor.

Why people enter franchising

In order to explore why people exit franchising it is necessary to consider what originally attracted them to franchising. A body of literature has already examined the incentives for franchising from the franchisee's perspective. There is sufficient evidence to suggest that the decision to enter franchising is a sub-set of the overriding decision to become self employed , and that the decision to select a suitable industry occurs prior to choosing the franchise vs. independent route .

Franchising provides an opportunity for people without prior business experience or who have low levels of technical skills to enter business as the franchisor provides the necessary

training in these areas. For an inexperienced operator, the association with a successful and established franchise organisation is regarded as a strong incentive . Similarly, some franchisees may be attracted to the unique product offered by the franchisor . In a study comparing previously employed people with those who were self-employed, Kaufmann and Stanworth found that the support structure offered by the franchisor was the most attractive incentive for self-employed people to join a franchise, whereas salaried employees valued the relative independence of franchising more. This perception of achieving greater independence was also noted as an important reason for pursuing franchising. However, notes that franchisees are best described as being in ‘controlled self-employment’ due to the operational restrictions imposed by the franchisor.

Franchising may offer a sense of security to novice entrepreneurs, particularly those who are risk averse . It offers a unique ability to belong to a large chain and thereby receive various benefits of that association, whilst at the same time allowing the franchisee a degree of independence . It is almost a cliché associated with franchising to ‘be in business for yourself, but not by yourself’, and this statement is used widely in franchisor promotional materials. Similarly, franchising is often held out to be a less risky means of entering business than independent business ownership but a great deal of debate surrounds this assertion .

In addition to many of the abovementioned perceived benefits associated with franchising, there are other external reasons why people may become franchisees. Growth in franchising is thought to boom during recession or in periods of economic downturn . Following the collapse of Ansett Airlines in Australia in 2001, the Jim’s Mowing franchise actively encouraged former Ansett employees to consider franchising by offering special deals to this group of people. Similarly, the downsizing of large corporations and high levels of

unemployment have been linked to growth in self-employment in general . Certain ‘push factors’ such as redundancy, career stage or family situation are thought to create greater interest in franchising . Indeed, many franchisors encourage the prospective investor to ‘buy yourself a job’ in their promotional campaigns. Franchisees are generally in the middle of their career path, aged 30 to 50 years, and with access to capital , thus allowing them the luxury of a career path switch when they are ready to change direction. In addition to the above reasons for entering franchising, we must also consider the factors that impact on a franchisee’s decision to remain in the system. Overall satisfaction with the franchise is important, as well as the franchisee’s level of trust in the franchisor . Also relevant is the franchise system’s competitive advantage; franchisees will have an incentive to exit if the system does not remain competitive in the market place .

In brief, there are many perceived benefits associated with franchising that may attract potential investors. These incentives may satisfy internal drives such as the desire for greater autonomy and independence or they may match an individual’s desired level of risk. In addition, certain environmental conditions, such as the state of the economy, may encourage people to consider franchising as a means of achieving their goals. Finally, the level of trust in the franchisor and satisfaction with the franchise system may determine whether a franchisee remains or exits. Next, the level of power exerted by each party in administering the franchise agreement is examined.

Power in the franchise channel

Power is the main avenue available to channel member participants to facilitate cooperation and to achieve desired goals and is defined as ‘the ability to influence another’s behaviour’ . In the franchising relationship, both the franchisor and franchisee possess and

control resources that are useful to the other party. The franchisor controls the franchise system, brand name, marketing strategy and intellectual property, all of which are valued by the franchisee. The franchisee, on the other hand, controls the hands-on application and operation of the business at the micro level and possesses valuable local market knowledge which is similarly valued by the franchisor. The degree of power depends on the extent to which one party depends on the other in the relationship . In a franchising arrangement the franchisee is heavily dependent on the franchisor, particularly in the early stages where the learning curve is steep. Indeed, most scholars concur that the franchisor wields the most power , although it is the mere perception of power rather than reality that is of most importance .

Several bases of power have been identified in marketing channels: reward, coercive, expert, referent and legitimate power and each of these is relevant to franchising arrangements. Franchisors have the ability to motivate superior franchisee performance through the offer of *rewards*. For example, the franchisor of Just Cuts, a hairdressing franchise, offers additional salons to successful franchisees. The New Zealand franchise, Stirling Sports, rewards good franchisees by extending their franchise agreements and waiving renewal fees. Whilst the offer of rewards is a positive form of power, *coercive* power involves punishment and negative sanctions . Even the withdrawal of rewards can be a form of coercive power. For example, franchisees who are performing poorly may not be offered the right to purchase an additional unit in a neighbouring territory, as has occurred with McDonald's . A danger associated with the use of coercive power is the possibility of franchisees developing countervailing power , as evidenced by the introduction of franchisee associations which form to protect franchisee interests.

If a franchisee perceives the franchisor to have some special or superior knowledge, then *expert* power exists. A major reason why people enter franchising is because they lack the skills and knowledge required to run a particular line of business. Thus, franchising enables novice operators to be trained as professional bookkeepers, car detailers, or food retailers without any previous experience. However, over time and as franchisees become more adept at business skills, their perception of the franchisor's superior expertise is reduced. Unless the franchisor is able to continue to provide value such as investment in research and development, the strength of its expert power will diminish.

The desire of a franchisee to be identified with a particular franchisor demonstrates its *referent* power over the franchisee. Many investors select a franchisor because of its well-established brand name. Franchises like McDonald's do not have to actively recruit franchisees; potential investors seek them out on the basis of their reputation. Finally, franchisors are perceived to hold *legitimate* power over franchisees, or some form of authority to act as they do. More than just a perception, the franchisor holds legitimate power granted by its franchise agreement, but this applies similarly to franchisees. Clauses allowing either party the right to terminate the agreement if the other breaches certain contractual obligations validate their legitimate power. The balance between franchisor power and franchisee autonomy needs to be maintained. Excessive use of power by the franchisor and too much franchisee autonomy can sometimes produce counter-productive results such as encroachment and the misuse of the franchise brand.

Several researchers have investigated the effect of power on franchisor-franchisee behaviour. In a study of fast-food franchising, it was found that greater franchisee satisfaction occurred when non-coercive sources of power (rewards rather than punishments) were used.

Similar findings were reported in a study of vehicle manufacturers and dealers . In addition, non-coercive sources of power were found to reduce conflict within the channel as opposed to coercive sources which exacerbated the problem , although it was later acknowledged that the causal direction of these two constructs may actually be reversed . Generally, conflict occurs where goal incompatibility exists . When the bookseller Dymocks introduced online trading via its head office, some franchisees felt their territories were being encroached upon and that sales would be cannibalised. This misalignment of goals between the franchisee and franchisor is an example of the type of tension that causes some franchisees the desire to leave the system. Potentially, this may be caused by a misuse of power by the franchisor. When franchisees exit but continue operating, piracy of the franchisor's brand is a potential problem. This issue of brand piracy is explored next.

Piracy of the franchisor's brand

Once a franchisee exits a system but continues to use part, or all, of the system provided by the franchisor (regardless of whether the brand name is used) a form of *brand piracy* has occurred. This form of piracy has little discussion in the literature to date. Hence, a possible explanation will be constructed.

An explanation of brand piracy and counterfeiting may potentially provide a framework by which some of the reasons for franchisees leave a franchise system, but remain in a competitive position, can be explored. This body of literature analyses the ever-increasing phenomenon of brand-piracy but remains focussed on a global product-based brand perspective . However, part of this perspective can be adapted to categorise some of the activities identified in this study. Firstly, a distinction should be drawn between counterfeiting and piracy. Whilst the terms are often used interchangeably, there are differences in the definitions that are important to

distinguish for this research. Counterfeiting refers to the ‘unauthorised production of goods that are legally protected by trademarks, copyrights or patents’ while brand piracy is defined as the ‘unauthorised use of copyrighted or patented goods or ideas’ . Counterfeiting is then explained as a complete replication of a branded product (such as Rolex watches in Thailand) while brand piracy can be viewed as the utilisation of the most important aspects of a brand but not the replication of the entire concept or product.

The eleven different herbs and spices from KFC provide an example where a secret formula unique to a product (fried chicken) is intrinsic to the taste and value of the brand in the consumers mind. Hence, the use of the secret ingredients in another organisation’s fried chicken is a form of brand piracy but not counterfeiting. Coca Cola also was reluctant to provide their drink formula to potential licensees in India as there was some fear that licensees would produce a similar cola product without proper authorisation from Coca Cola. Hence the product would be similar (if not the same) to Coca Cola but without any other of the more common brand attributes such as the name or bottle shape (taste being an intrinsic part of the Coca Coal brand). French perfume company’s were asked by Chinese manufacturers to provide perfume formulas and also manufacturing processes. However, the French company’s refused on the basis that a similar product could be produced without the brand names associated with them. These examples show that brands are seen commercially as more than the brand name itself by the organisations involved. This is an important distinction to make with the form of brand piracy under discussion in this paper.

Branding literature focuses on product associated elements of the brand such as logo, characters and symbols . There is a distinction between this view of branding and retail brands, such as those found in franchising where intellectual property involving operations, systems and

training manuals; promotional material; and cultural initiatives specific to the franchise system is also included in the brand structure. The collection and application of intellectual property in a franchise system is intrinsic to the formation and maintenance of the entire brand in a franchised retail format. Hence, for the purposes of this study brand piracy occurs when a former franchisee continues to use in part, or in full, the intellectual property of a franchisor but without the brand name.

The brand, especially in franchising, can be the most valuable asset possessed by a firm resulting from extensive resources being invested over a long period of time. A franchised organisation's intellectual property can be threatened by brand piracy, whereby imitations of the retail offering are sold to unwary consumers as the original. While the use of the original brand name does not usually take place (although there have been cases of similar names and logos being used, such as Winner's for Wendy's in Korea), a continued use of key facets of the intellectual property remains, such as operations procedures, marketing techniques, colour schemes and the use of the data base built up while the ex-franchisee was operating within the original franchise system. This imitation system is then presented to the already established clientele as a bona-fide replacement for the original brand.

Some consumers certainly see the original brand as the most secure source of product or service. However, there is evidence that suggests that some consumers will use a former franchisee operator on the basis that there is no difference in the quality of the product or service. Indeed, some consumers will actively evaluate the original brand and subsequent imitations in order to obtain the best value for money. This tends to occur when brand equity begins to symbolise strongly an image rather than more tangible product attributes. Hence, consumers may begin to regard the brand and the product as different entities serving different purposes

The type of product or service, the competitive nature of the industry, and the operators themselves will dictate the level of brand imitation involved . Further, former franchisees may evaluate the extent to which they compete with the franchise system in question given the non-competition constraints active in the franchise agreement, the level of conflict evident between the franchisor and franchisee at the time of exiting (evaluation of any potential litigation), and the degree to which customers will accept a replacement brand for the particular product or service involved (evaluation of potential profit).

Why some franchisees exit

It is obvious that franchisees leave the franchise for a variety of reasons. For example, on the positive side they may sell to make a profit, move on to new challenges, or retire from the business. However, sometimes the reasons for leaving are negative, such as business failure, dislike of the work, or disappointment with the franchise. Most franchisees wait until they are able to sell the business, but some simply walk away. Others choose to continue to operate in the same line of business, indicating that the business itself is viable but that the franchisee desires freedom from the restrictions imposed by the franchise. This final group of franchisees is of interest to the present discussion. The focus of this research is to juxtapose the reasons ex-franchisees pirate the franchisor's system, and whether power in the franchise channel plays a role in the exit process. The decision to exit a system and remain in competition with the franchisor appears to be a complex process that requires further investigation.

Methodology

Research was conducted in two parts. The first stage consisted of survey to franchisors to provide background information in this area and the second stage consisted of in-depth interviews which provided the main source of information for this article.

Stage 1

A national survey of franchisors comprised the first stage of the research which was conducted electronically via the Internet in Australia. 148 useable responses were received from 700 franchisors surveyed, resulting in a response rate of 21.1 percent, which is regarded as satisfactory for business surveys .

Further, almost one quarter (23.8 percent) of the 148 franchisors surveyed had, or intended to take, legal action against their former franchisees for breaches in this area. A spread of industries, sizes and ages of franchises were apparent, indicating that this practice was widespread and not common to a particular type of franchise. This further reinforced the need to research this area. Industry groupings by franchisors for this phenomenon are shown in Table 1.

TABLE 1 ABOUT HERE

One section of this survey identified 49 franchise systems that had experienced franchisee exits consistent with the context of this research. The responses in this part of the survey provided *background* for subsequent in-depth qualitative data collection out of the sample of franchisors . This led to stage 2 of the research process.

Stage 2

Survey respondents were asked to indicate if they would be prepared to participate in further in-depth research focussed on brand piracy. This involved interviewing a small convenience sample of franchisors and subsequently franchisees and ex-franchisees from the same franchise systems.

Hence, a qualitative approach was used to gather data, from the selected respondents that included descriptions of experiences and emotions. Interviews were deemed most appropriate for gathering this rich, deep data . This approach was used to provide a view of “the meanings

people attribute to their experiences and social worlds” . Due to the extremely sensitive nature of the research question as well as the geographical spread of respondents, telephone interviews were conducted. The interviews were not taped but the researcher took notes. Following each interview, the interviewers categorised the data obtained in order to identify themes to explore in subsequent interviews. Franchisors were asked to provide contact details of an ex-franchisee as well as a current franchisee in order to investigate various points of view. Some six-franchise systems were included in the research, providing a total of 18 separate interviews. A profile of respondents is given in Table 2.

TABLE 2 ABOUT HERE

A single researcher, with industry experience in the franchising sector as well as holding legal qualifications and accredited mediation skills, conducted the full set of interviews. This was regarded as a critical aspect of the project as enlisting participants proved to be challenging. In many cases, the relationship between the franchisor and ex-franchisee had deteriorated or was adversarial, thus requiring a sensitive approach by the researcher. In addition, having three researchers on the team meant that we were able to use checkpoints in the research design, allowing us to assess progress and adjust the data collection and analysis as we proceeded . The following themes emerged from an examination of the data collected in the interviews.

Findings

Franchisors were asked a series of questions including franchisee recruitment and selection techniques, support/monitoring/communication methods, problems experienced with franchisees, reasons for franchisees exiting, use of restrictive trade covenants in franchise agreements, and action taken against franchisees who exit but continue operating. Franchisees were asked, among other things, about their reasons for joining and (if applicable) leaving the

franchise, prior employment background, perceptions of franchisor services, and comparisons of business performance during and beyond the franchise.

For most of the *former franchisees*, it was their first foray into business. One respondent had been a franchisee in another system in the same industry. All had high expectations about what the franchisor would provide but there was little evidence of in-depth research prior to making the decision to join the franchise. One franchisee felt that if he had his time over again he would investigate the franchisor more thoroughly. Several nominated franchise fees as a major reason for leaving and others mentioned dissatisfaction with the franchisor and a desire for greater independence. One person commented: "I left because I didn't need the security blanket of the franchise any more". Another commented: ".. it was all about selling franchises. Once you signed there was no loyalty". This degree of disenchantment with the franchising relationship was a common theme discussed in the interviews.

Levels of franchisee performance varied but all respondents felt their performance had improved since departing the franchise. Most sought legal opinion before operating independently and felt confident they would not be pursued by the franchisor, despite their agreements containing non-competition covenants. All were operating under new names but appeared to be the same business as before: "...same game, new name". Some had continued to use the same telephone number. Customers tended to remain loyal to the operator. Even when given a choice, one franchisee reported that his clients preferred to remain with him. It appeared that none of the franchisees interviewed was a direct threat to the franchisor's overall operations. That is, these now-independent owners were satisfied in continuing operating much as they had been before and were not contemplating forming their own franchise system. The two main

threats to the existing franchise were loss of royalties for the franchisor and the negative message being sent to other franchisees in the system that this type of behaviour would be tolerated.

The *franchisors* described their most important support services as the provision of centralised booking services, initial and ongoing training, ongoing marketing support, provision of technical advice and development of new products, business development advice and support for unforeseen circumstances. Common problems faced with franchisees were related to non-compliance, such as the use of unauthorised products or activities that may harm the brand and the tendency for some franchisees to work at minimum performance levels. One franchisor commented that “it’s probably best to be friendly with them, but not their friend” because of the difficulty in melding the personal relationship and the contractual one.

All the franchise agreements contained non-competition covenants, although the franchisors tended to feel that they were ineffective depending on their level of litigation experience. Thus, most respondents were not intending to take legal action against competing ex-franchisees. One franchisee in a mobile franchise sold the unit and then continued operating in competition with the new franchisee. Some of the franchisors felt that the wording of the clauses in their franchise agreements may have been drafted too widely to be upheld and they were considering rewording their non-competition covenants, although the common opinion of franchisors was that these covenants were difficult to enforce no matter what the circumstance. Some franchisors noted that they often spent a lot of time with a prospective franchisee (including interviewing and organising a trial work experience) only to discover later that the person had started a similar business as an independent operator. Such people appear to use franchisors as a resource for researching their own business plans.

The *currently operating franchisees* were in most cases identified by the franchisor so we were aware that the franchisor was generally happy with the franchisee's behaviour and performance. In the couple of instances where we selected the franchisee ourselves, a less glowing, but still positive, interpretation of the relationship was reported. Franchisees ranged from 5 months' to 10 years' experience with the franchise system and had a similar profile to the ex-franchisees in terms of previous employment history and depth of research into the franchise. However, all respondents rated themselves as middle to high performers and all but one reported a high level of satisfaction with the franchisor and the system. Two franchisees did not intend to renew (they had decided to sell and try something else) but the remainder were committed to renewing their agreements when they fell due. Most articulated a strong sense of commitment to the franchise, such as the franchisee of two years in a mobile service industry who said: "...the franchise offers a lot more than being a sole trader. Franchising is working for yourself but not by yourself ...you would not make a living if you were on your own".

A consolidation of the three viewpoints (franchisor, ex-franchisee and current franchisee) provides the following observations. In none of the systems did the ex-franchisee continue to use the franchisor brand name. However brand equity was pirated (that is, without payment) in all cases through use of the intellectual property of specific business system knowledge, skills and experience, and in some cases by serving the same customers or staying in the same locality. In all cases the ex-franchisee was in direct competition (but not necessarily in the same area) with the franchisor. Attribution of blame was polarised, with each blaming the other. Essentially the franchisor saw the ex-franchisee as a low to medium performing franchisee that was not complying and was also under-performing. In contrast, the ex-franchisee perspective was that they were not receiving enough service from the franchisor and felt disconnected from

the franchisor and their system. As expected the views of current franchisees (nominated by the franchisor) were fairly similar, but not entirely consistent with the franchisor. There were a couple of cases where the current (often highly performing) franchisee was slightly critical of the franchisor, but generally their views were congruent with those of the franchisor. We do not use this agreement of thinking to show that the franchisor is right and the franchisee is wrong. Rather we infer that the franchisees that leave and pirate are different to those franchisees that stay in the system. Most franchisees more or less receive the same services from the franchisor. However, in one group these services are not appreciated, forming the basis of disconnection from the system and subsequent conflict. How can one explain these different perceptions? Our analysis turns away from blame to that of explaining the different trajectories of relationship between the franchisor and different franchisees.

Power

What is the process by which the well-developed relationship between the franchisor and the franchisee dissolves in an adversarial, even litigious way? The seeds of discontent that grow to become very severe commence after a (variable rather than fixed) number of years if, for some reason, the franchisee starts to stagnate. In extreme cases this could be due to burnout or simply losing interest in the business (generally due to a lack of profit). Everything becomes more difficult for the franchisee from this point. All aspects of the business start to suffer, including both marketing and operations. Compliance to the franchisor standards starts to deteriorate. Gradually this type of franchisee disconnects from the system with a different focus on the *power* relationship that previously existed. Services will still be received, but the franchisee will not appreciate these services in the way that more involved franchisees do. The franchisee will eventually perceive that they are being neglected by the franchisor even

though initially the franchisor may not in practice have done anything to justify this view. This brings about a fundamental shift in the relationship that takes the franchisee and franchisor through a process involving all aspects of power.

Firstly, the franchisor may provide a *reward or bonus* system to entice the franchisee into reattachment with the system. In some cases the use of a *reward* through the granting of extra territory was utilised but without positive effect. Other mechanisms, such as reduction or even waiving of franchisee fees and advertising levies to enhance short-term profitability, are examples of *reward power* by which the franchisor attempts to maintain connection with the franchisee. However, in all cases where this type of reward was used no success was achieved.

Continued stagnation of the franchisee's business combined with a perception of being isolated and neglected eventually leads to animosity on behalf of the franchisee towards the franchisor. Although their performance has dropped, the franchisee actually believes that they have done fairly well given the (perceived) lack of support from the franchisor. At this stage the franchisee has almost totally disconnected from the system and starts to question why they should pay fees and stay in the system. In an attempt to rectify the situation *coercive power* is then applied by the franchisor in an attempt to gain compliance from the franchisee. The usual methods mentioned in interviews were various communications via email, formal letter (from the franchisor) and letters from the legal representative of the franchisor referring to franchisee obligations under the contract and subsequent negative outcomes if compliance was not obtained. In some cases these threats were carried out and some litigation commenced. However, the court did not uphold the trade restrictions, stated in the franchise agreement. Most of the franchisors were prepared to take legal action (from letters of demand through to litigation) against the ex-franchisee. However, some are deterred from litigation in the court system

because of the high legal costs (especially if the franchisor has previous litigation experience). This is reinforced by the lack of clarity about the outcomes of the court system because of the general perception of restraint of trade covenants in franchise agreements. The more experience the franchisor has in litigation, the more they negotiate a commercial outcome prior to total disconnection of the franchisee, rather than post-disconnection/exit litigation. Maturity of the franchisor plays a significant role in the exit process. The less mature the franchisor the more prone to litigation, with the most mature franchisors adopting a purely commercial approach. *Coercion* therefore, remains synonymous with the exit process. At no time did the ex-franchisee attempt to contact a *countervailing* power such as a franchisee representative organisation. In most cases contact with a lawyer was the initial and only step.

Not only are franchisees ready to leave the system, but the sour relationship and negative attitude towards the corporate office gives them the “right” to set up in opposition to the franchisor. This *legitimises* their position to the extent where pirating the brand from the franchisor is, in a sense, payment for the time spent in the franchise system.

Referent power remains an important part of the franchisee/franchisor relationship. It is acknowledged as an axiom that mature franchise brands hold more referent power. This study suggests that potential franchisees that lack business knowledge may be more likely to enter a less mature franchise system. As a system becomes more mature its ability to reject potential franchisees increases, thereby benefiting the system in two ways. Firstly, it reduces the future likelihood of conflict and secondly, increases the positive perceptions of the brand (*referent power*).

There is usually some reluctant admission from the ex-franchisees that they have benefited from the franchisor, but they do not give this much weighting. This is linked to *expert*

power where the franchisee has gained knowledge and expertise relevant to the solo business they are now embarking on. Little weighting is given to this area because the franchisee was unable to see any added value provided by the franchisor in the area of research and development for new products or additional services. Once proficiency has been reached in a desired skill set, combined with a lack of profitability, the franchisee sees no benefit in remaining within the franchise system.

In brief, franchisees were leaving the system because they felt they were receiving insufficient value for their franchise fees from the franchisor or because they were now sufficiently independent and capable of operating solo. The proportion of franchisees leaving their systems was relatively low, however franchisors were sufficiently disturbed by the action to want to prevent further instances. Table 3 lists why people enter franchising, taken from the literature, and compares these reasons with the experiences of the sample of former franchisees interviewed in this study. Although only tentative, the pattern emerges that this group of franchisees was not satisfied that the services or benefits provided by the franchise were unique. That is, despite the purported benefits of franchising, the franchisees felt they would be better off operating independently.

TABLE 3 ABOUT HERE

Below are the themes that have emerged from the data, which are indicative of the process by which disconnected franchisees undertake an exit strategy.

Proposition 1: *Potential franchisees who lack business experience tend to enter franchising on the basis of little or no investigation.*

Proposition 2: *Franchisors who are less mature tend to use coercive power as a first resort.*

Proposition 3: *The power systems used to attract potential franchisees can be used in a similar fashion in an attempt to keep disgruntled franchisees from exiting. Hence, power is a part of the process, rather than the cause.*

Proposition 4: *Mature franchise systems are more likely to utilise commercial negotiation to facilitate a franchisee's exit rather than formal power such as litigation.*

Conclusions

This exploratory research into the reasons why some franchisees leave the system but continue operating reveals several insights as to why brand piracy in franchising occurs. It appears that whilst some people enter franchising with good intentions and optimism for their future success in the system, others may use franchising as a means of entering the industry as independent operators. If franchisees experience disappointment with the services provided by the franchisor or frustration with the restrictions imposed, they may consider exiting and becoming solo operators. For every franchisee that takes this course of action, however, many others do not. The difference in attitude may be linked to the individual's sense of ethical business behaviour, but also relates to their (peculiar) perception of support services received.

Whilst most franchise agreements contain non-competition covenants, if drafted too vaguely they may be difficult to enforce. The courts often find them too restrictive and disfavour them. Franchise agreements may be unenforceable if the process and equipment used to provide the service are generic and readily accessible outside the franchise. Similarly, the degree of copying of the system and the extent to which the ex-franchisee relies on the franchisor's intellectual property or know-how is often considered by the courts (Germann, S. 2003, pers. Comm.. 2 September). In addition, franchisors need to be motivated to pursue offenders and must balance up the cost of the exercise against the effectiveness of the action, including the message it sends to other franchisees. Particularly if a franchisee feels that his/her success is due largely to personal effort and not to the franchise system, that franchisee may be able to justify withdrawing from the franchise.

Awareness of the various stages that franchisees experience in the franchising relationship life cycle may also offer some insights into why franchisees choose to exit. When this life cycle is used to view the power relationship formed at various stages of the franchisee's life within the system, it is possible to see that some franchisees fail to progress from their initial heavy dependence on the franchisor to a more balanced, interdependent relationship over time. Such franchisees may believe that the franchisor should continue to provide the same level of support and be involved in the franchisee's business on a day-to-day basis. As the franchisor gradually reduces its involvement, some franchisees may perceive this as being neglected, thus causing resentment to build. It may seem more palatable to these franchisees to continue alone.

An examination of the type and use of power in the relationship also revealed some insights as to how power can both cement and damage franchising relationships. If the franchisor relies more on coercive sources of power than non-coercive sources, franchisee satisfaction and morale is reduced and franchisees will be less cooperative. In fact, franchisees may be motivated to act opportunistically if they feel restricted by the franchise system and the franchisor's authority and control. Reliance on the franchisor's perceived expert power declines over time as the franchisee gains confidence and experience. As franchisees become more proficient and confident in the business and increase their skill levels, the expected gains from receiving further franchisor-supplied inputs may decline. Awareness of the franchisor's legitimate power may encourage the franchisee to decide not to yield to it. Under such circumstances franchisees may feel they are better off by choosing to operate independently. Franchisees and franchisors ultimately have different motivations for being in the relationship and the greater the gap between shared goals, the more difficult it will be to balance the relationship. A major difference in perspectives is illustrated by the fact that the franchisor is

usually motivated by sales (higher sales equals more income through ongoing fees), whereas the franchisee is more likely to be motivated by profits .

Implications for Channel Management

Our research highlights the franchisor's need for an effective franchisee exit policy. Pirating franchisees are an extreme example of a dysfunctional relationship. There may be other examples of dysfunctional relationships that simply result in stagnation or delayed exit, but without major breaches of the contract. Franchisors can minimise these problems by more proactive management of franchisees when signs of stagnation appear. Franchisors can facilitate the early departure of franchisees in some cases (before disconnection and resentment occurs) or provide means of motivating franchisees to re-energise their business.

The main thrust of the paper is to develop knowledge in an area of franchising that, to date has virtually no research associated with it. While this provides a significant contribution to franchising literature, marketing management readers should be able to apply the findings/principles to areas such as channel management (where similar conflict occurs), contractual arrangements such as sales representation for products and licensed products and services where the relationship falls short of franchising but does not include company owned operations.

Implications for Brand System Management

Management of the brand within a franchise is fundamental to the ongoing health of the system involved. As stated, maintenance of the brand incorporates the intellectual property of operations, systems and training manuals; promotional material; and cultural initiatives specific to a franchise system. In some cases within this study the more traditional approach of litigation has been replaced, by the more mature franchise systems, with a more commercially focussed

negotiation process that removed the disaffected franchisee from the system with minimum damage to the brand. This was reinforced when other current franchisees (when interviewed) were unaware that the ex-franchisees were no longer in the system.

Therefore, a key finding is that prevention is a far more effective strategy than reactive litigation. The franchisor needs to focus on the early stages of the relationship in order to avoid the more serious outcome of brand piracy. This type of proactive approach contributes significantly toward more effective ongoing brand system management .

There are also similarities that can be drawn between franchisees who commit brand piracy and managers of company owned operations. These managers may leave their positions and, as a result of poor supervision or process, damage the brand at store level. Clearly the same preventative style of management could allay a potentially damaging situation either by averting immediate tarnishing to the brand such as substandard store operations or a longer-term problem of pirated information being transferred to a competitor.

Limitations and future research

While it is acknowledged that this research is limited in sample size and is qualitative in nature, saturation of the data was achieved quickly. Hence the findings are indicative of the wider franchise community. Moreover, the research process sought the underlying reasons for the process of exiting a franchise system to continue operation as a brand pirate. This focus could allow for replicability of the methodology in order to test for similarities in other populations.

Further research could also be conducted into the alignment or misalignment of entrance goals with exit perceptions among franchisees in order to measure any similarities or significant differences depending on the type of franchise and/or franchisee involved. Other research could

highlight brand piracy issues with regard to specific types of piracy relevant to franchising and the broader area of marketing channels.

Table 1
Franchisors by industry

Industry	Full sample		Franchisors with franchisee exits*	
	Number	Percentage	Number	Percentage
Retail trade – non food	46	31.1	13	28.9
Property and business services	28	18.9	10	22.2
Retail trade – food	22	14.9	8	17.8
Personal services	12	8.1	6	13.3
Construction and trade services	8	5.4	2	4.4
Cultural and recreation services	5	3.4	2	4.4
Education	4	2.7	2	4.4
Finance and insurance	6	4.1	2	4.4
Other industries	17	11.4		
Total	148	100.0	45	100.0

* Franchisee exits are those franchisees who exited the franchise system but continued operating independently. It does not include exits for other reasons, such as sale or termination of franchisee outlets.

Table 2
Profile of franchise system participants

Franchise	Industry	No. years operating	No. years franchising	Franchised units	Franchisees	Company units
A	Personal services	12	11	45	44	0
B	Property and business services	18	15	100	108	0
C	Retail – food	18	16	150	120	1
D	Retail – food	18	13	66	62	6
E	Retail - food	17	16	191	180	1
F	Retail – non food	32	30	6	2	5

Franchise	Length of franchise agreement	Initial franchise fee *	Total start up cost of new unit *	Franchise services fee per month *	Marketing levy per month *
A	10 + 10 years	\$22 550	\$22 550 + own vehicle	\$418	\$110
B	5 + 5 years	\$25 000	\$40 000	\$568	\$280
C	5 + 5 years	\$38 500	\$260 000	6% of sales	6% of sales
D	5 + 5 years	\$17 500	\$200 000	6% of sales	3% of sales
E	10 + 10 years	\$50 000	\$300 000	4% of sales	3% of sales
F	5 + 5 years	\$20 000	\$200 000	6% of sales	\$1000 + 2.5%

* includes Goods and Services Tax (GST) of 10%. Where a range of figures was provided, the average has been calculated.

Table 3
Reasons for entering franchising

Reason for joining (literature)	Interviewee experiences
Training and support offered (allows inexperienced people to enter)	Critical of support offered or no longer needed support
Established brand name	Do not need brand name; established customer base considered more important
Product or service offered	Satisfied with the product or service
Perceived independence and autonomy	Too restrictive; not enough independence
Entire franchise 'package'	Disappointed overall, particularly with initial training (inadequate), ongoing marketing (insufficient) and operations manual (below expectations)
Lower risk	No longer applicable; now confident they can operate without security of the franchise
Association with a large chain	Few benefits
'Push' factor, for example unemployment or retrenchment	Two respondents joined after facing redundancy
Mid-career stage	Relevant
Family issues, for example provide employment for family members	Relevant
	Other – A means of entering this line of business, that is, a deliberate entry strategy

References