

2008 Franchise Law Symposium

With the enactment of franchise-specific laws in four jurisdictions, the need for uniformity in franchise legislation in Canada is greater than ever. Alberta, Ontario, Prince Edward Island and (most recently) New Brunswick have passed laws targeting franchising. Quebec offers limited protection in its *Civil Code*.

The regulation of franchising is designed to protect the franchise by imposing pre-sale disclosure requirements on the franchisor and creating substantive duties of good faith, fair dealing, and rights of association. Problems arise when individual jurisdictions take their own path without considering the practical implications on business.

Franchising has been regulated for dozens of years outside of Canada. International franchisors are accustomed to operating in diverse regulated environments and have the resources to deal with complexities associated with expansion. It is the domestic franchisor who is finding the patchwork of laws across Canada onerous.

When the Manitoba Law Reform Commission (“MLRC”) requested a response to their Consultation Paper on Franchise Law last year, little consideration had been given to the regulation of franchising since Manitoba’s legislature failed to pass Bill 18, *The Franchises Act* into law in 1992. The Desautels Centre for Private Enterprise and the Law and the Asper Chair of International Business and Trade Law at the University of Manitoba’s Robson Hall took on the challenge of investigating the matter further.

What resulted was not just a paper but an open discussion between academics, students, legislators, solicitors, litigators, and industry leaders from across Canada. They converged in Winnipeg on 14 March to share unique experiences and views on the state of franchising at the 2008 Franchise Law Symposium.

It was clear to all in attendance that lawyers and their clients preferred the predictability of uniformity across jurisdictions, if a regime were to be imposed at all. The original consultation paper and the materials presented at the 2008 Franchise Law Symposium are printed in the following section.

