

Franchise Terminations: “Good Cause” Decoded

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Abstract

The body of law surrounding franchises is far from uniform, including laws governing the termination of franchises. Laws concerning franchises differ from state to state; some states have special laws specifically addressing franchises while other states treat franchises as any other contractual relationship. The legislative definitions differ to some degree even on what constitutes a “franchise.” These diverse views of the franchise relationship greatly affect the rights and duties of franchisor and franchisee alike. These differences also affect how courts evaluate the termination of a franchise relationship.

States that view franchise contracts as legally indistinct from other contractual agreements are typically less protective. In all states, violating certain franchise contract terms can lead to automatic or immediate termination. Even in states with laws intended to protect franchises, the franchise relationship may be terminated for a variety of reasons. However, some states have attempted to regulate franchise terminations with statutes requiring “good cause” for termination – the goal is to balance the unequal bargaining power between franchisors and franchisees.

Statutes or court decisions usually define “good cause” narrowly as the failure of a franchisee or dealer to comply substantially with essential and reasonable requirements imposed by the franchisor or supplier. The test used in defining good-cause center on commercial reasonability. Similarly, the statutory term “unjust” (i.e., unfair) means a termination or nonrenewal made without good cause or in bad faith. In effect, such unconscionability depends on concrete evidence of (1) a franchisee’s absence of meaningful choice and (2) contract terms unreasonably favorable to the franchisor. A franchisor’s presumably superior bargaining power alone does not permit a finding of “unfairness.”

By collecting and examining 342 cases dealing with franchise termination, the author has performed statistical analyses on the frequency, trends, and likelihood of courts reaching a “good cause” outcome while taking into account various factors, such as the existence of specific state laws and the reason for termination. The results from these analyses are used to demonstrate the legal trends, a glaring need for uniform franchise laws, and how statutory modification can reflect what the courts are already doing.

Key words: coding, good cause, reform, relationship, termination

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