

**ADVISORY COUNCILS: EFFECTIVE TWO-WAY
COMMUNICATIONS FOR FRANCHISE SYSTEMS**

**By: Erik B. Wulff, Esquire
DLA Piper Rudnick Gray Cary US LLP**

Published by

**INTERNATIONAL FRANCHISE ASSOCIATION
Franchise Relations Committee**

© International Franchise Association, 1995
Revised 2005

TABLE OF CONTENTS

Goals of the IFA	3
Advantages and Disadvantages of Advisory Councils	6
Organizing An Effective Advisory Council: By-Laws	8
Sample By-Laws for Advisory Councils	19
Sample Agendas	38
Sample Letter	42
Sample Nomination Form	44

GOALS OF THE IFA

Franchising is a symbiotic relationship involving mutual interdependence and reliance. Franchisors and franchisees are bound together by their common goals and mutual interests. However, divergent interests and views may develop. Franchisors and franchisees recognize that successful franchise systems must maximize their common goals, and minimize areas of disagreement, if they are to function properly and be effective. A franchise system in which the franchisor and its franchisees view each other, rather than their competitors, as "the enemy", will not long survive in our highly competitive economy.

It is with this recognition that the International Franchise Association has adopted a Code of Principles and Standards of Conduct that addresses issues that may generate disputes between franchisors and franchisees. This code is intended to be a policy statement by the IFA with respect to a number of critical elements of the franchise relationship, including Advisory Councils. The IFA encourages the formation and use of Advisory Councils to foster effective two-way communications.

The adoption of a code of standards is only a part of the broader program the IFA has adopted to strengthen franchise relationships and make franchising an even more effective and productive business relationship. The IFA has significantly broadened its mission by opening its membership to franchisees. The IFA has become an association of franchisors and franchisees, an association which speaks for both franchisors and franchisees to improve the environment for franchising.

Most franchisors and franchisees have long realized their mutual interdependence and the benefits of a cooperative relationship. The IFA program of inclusion of franchisees is intended to make the recognition of mutual interdependence a universal characteristic of the franchise relationship. This booklet, as its title suggests, serves as a road map for one of the key elements to constructive franchise relationships, the Advisory Council.

What is an Advisory Council?

These organizations are known by various names, including franchisee advisory boards or councils. They may have varying levels of formality or informality, but all have a common goal: fostering constructive two-way communications between a franchisor and the franchisees of its system. This is done by having a select group of

The Need for Franchisees Advisory Councils

franchisees discuss on a regular basis matters of mutual interest with their franchisor. This group of franchisees acts in a representative capacity for the common interests of franchisees in the system.

The IFA has encouraged the formation of Advisory Councils for many years. The original edition of this booklet, entitled "How to Organize a Franchisee Advisory Council," was first published in 1979 and then revised in 1985. This booklet "Advisory Councils: Effective Two-way Communication For Franchise Systems" was first published in 1995 and updated in 2005.

A survey conducted by the IFA of its franchisor members shows that a vast majority of those who responded have established Advisory Councils, and more than 90% of the Advisory Councils have their members elected by franchisees, rather than appointed by the franchisor. Advisory Councils typically meet with the franchisor, either quarterly or semiannually, and the members serve primarily in an advisory capacity. Rarely do these Advisory Councils have decision-making power or "veto rights" over franchisor decisions, but it is equally rare for a franchisor to ignore the recommendations of its Advisory Council. Topics discussed with these Advisory Councils vary considerably and may cover goods and services, equipment, advertising, operations, corporate policy as well as communications.

While the IFA believes each franchisor and its franchisees must decide for themselves whether an Advisory Council would foster constructive two-way communications for their systems, this booklet reflects the reality that Advisory Councils have proven effective for many franchise organizations. Indeed, the overwhelming majority of franchisors and franchisees in systems that have Advisory Councils rate them as an effective means of two-way communications. Yet it is important to note that this is only one of many tools to foster good franchise relations. Aside from doing all the right things as a franchisor (i.e., new product development, effective marketing, field support, etc.), a franchisor needs to continue to communicate with franchisees on an individual level. An Advisory Council is not the end of individualized communication and attention.

For readers who want to establish an Advisory Council, this book serves as a "how-to" manual -- one that is based on the experience of IFA members who have established their own Advisory Councils. For readers who already have established an Advisory Council, this book can help assess how well their present structures work, and how those structures - and the way they operate - can be improved.

Besides providing information on how to organize and structure successful Advisory Councils, this booklet also covers suggestions on how to run an Advisory Council effectively, smoothly and

harmoniously. It also includes appendices with sample council by-laws, sample council agendas and sample correspondence.

The IFA's commitment to franchise relations is demonstrated through this publication, the work that went into it, and, certainly, its popularity among IFA members. This publication and other IFA activities are intended to assist franchisors and franchisees in maintaining healthy, prosperous business relationships with each other.

How Do Advisory Councils Get Started?

It is human nature to want to be recognized, heard and have one's views considered. As franchise organizations grow, the ability to fulfill this human need through one-on-one personal relationships between the executives of the franchising company and franchisees diminishes. The personal relationships, which often are the "glue" that keeps a small franchise organization together, dilute with growth, and franchise organizations must explore other means of meeting this human need. Responsible franchisors will recognize this and establish a more formal channel of communications (i.e., an Advisory Council) as they grow. A franchisor who does not recognize this human need is not spared the inevitable challenges of listening to and dealing with its franchisees -- challenges that are inherent with any business that has long-term customers. In fact, franchisors who are not pro-active in establishing these lines of communications will likely have it thrust upon them. As a franchise organization grows, franchisees will want to continue to be heard through some representative group, whatever form that may take. The franchisor who waits until its franchisees initiate such steps, risks facing a cold wake-up call when confronted for the first time by franchisee representatives. These representatives will likely be vocal due to the frustration and dissatisfaction from a lack of effective communications. As with other aspects of the franchise relationship, franchisees will fill the void where there has been a lack of leadership by the franchisor. Under these circumstances, the initial communications and workings with such an organization can be contentious because of pent-up frustrations. Moreover, human nature being what it is, those who are most dissatisfied will be most vocal, and the initial representatives of a franchisee-initiated council may consist of the most disgruntled franchisees. It makes for a difficult start. ...

Advantages and Disadvantages of Advisory Councils

What are some of the Advantages of an Advisory Council?

Foremost, an Advisory Council provides a mechanism to meet that human need to be heard. It provides franchisees with the ability to have input on matters that are important to their businesses and the franchise system as a whole.

In most franchise systems, many of the most dynamic improvements to products and services, or the way in which the franchise system operates, come from franchisees. The activities of an Advisory Council can promote this kind of creative dialogue among franchisees and bring fresh ideas and innovations more quickly to the attention of the executives of the franchisor.

Advisory Councils also help to make franchise organizations more nimble. One of the inherent challenges with any franchise system (regardless of the contractual provisions in the franchise agreement) is to get franchisees to accept the periodic changes necessary to keep the franchise system competitive. Through an Advisory Council, a franchisor can effectively communicate the need to implement changes to adjust to competitive circumstances in the market place.

By having discussions with an Advisory Council about important issues that are facing the franchise system, a franchisor may be able to obtain the endorsement of the direction in which it wants to lead the system. This legitimizes those decisions and makes them easier to implement: it fosters an environment in which recalcitrant franchisees go along with program changes as a result of peer pressure, rather than a heavy hand of an exasperated franchisor who feels it has no other alternative but to fall back on its legal rights and enforce its contracts.

Also, bear in mind that your franchisees are your most effective franchise sales persons. Fostering harmonious franchise relations in many different ways, including effective two-way communications, enhances a franchisor's ability to expand. More now than ever before, prospective franchisees are investigating franchise systems before investing in them. A prospective franchisee will quickly become aware of any significant discord, and its presence may raise serious doubts about the desirability of joining that system.

The old adage, "You can't please everyone all of the time," is true of franchising as well. By having franchisees communicate their concerns through their representatives, this mechanism provides a "filter" for concerns that are not commonly shared. Criticism can be channeled into more constructive efforts to improve the system as a whole.

Finally, top executives of the franchisor will be much more closely attuned to the concerns and needs of the franchisees by virtue of ongoing communications with an Advisory Council. It helps make the franchisor a more effective leader of the franchise system.

What are some of the Disadvantages of an Advisory Council?

One of the major risks of an Advisory Council is the danger of letting this type of structure deteriorate into "management by committee." Unless properly organized and run with a focused purpose, the franchise system may lose a sense of direction; without the firm, but respectful, hand of the franchisor in reserving the right to make ultimate decisions, the organization may suffer from a certain paralysis.

If the Advisory Council members are democratically elected, as most are, there is a risk that the Advisory Council will have a disproportionate number of disgruntled franchisees. Satisfied franchisees are likely to be more complacent than those who are dissatisfied. By giving disgruntled franchisees the ability to get elected to the Advisory Council, they may gain greater stature and credibility than might otherwise be possible.

The politicking that inevitably occurs with elections can be a distraction from the business. It may also lead to the development of factions within the body of franchisees, underscoring their divergent interests.

Finally, the antitrust laws prohibit competitors from engaging in certain types of concerted activities, such as price fixing. It is important that the franchisor advise the members of the Advisory Council of these legal constraints and ensure that the council is not being used for anti-competitive purposes.

On balance, the advantages outweigh the disadvantages for most franchise systems. Advisory Councils are a fact of life in modern franchising today — they should be embraced rather than spurned. In fact, some state laws today give franchisees the statutory right to band together for lawful purposes and prohibit franchisors from interfering with their efforts.

ORGANIZING AN EFFECTIVE ADVISORY COUNCIL: BYLAWS

Bylaws are the "ground rules" of an Advisory Council. The first step in organizing a council is to develop a set of bylaws specifying the council name, purpose, organization and operating procedures. Bylaws give a council its character and structure and act as a reference point in conducting ongoing council affairs.

Advisory Council bylaws range from basic to complex. Some bylaws contain detailed articles written in precise legal language and covering virtually every contingency which could arise in the affairs of the council.

Others are shorter, less formal, limiting the bylaws to fundamental issues, such as the council's purpose, membership, *etc.* However, they should all cover certain basic questions:

- What is the purpose of the Advisory Council
- Who belongs to the Advisory Council and who elects/appoints its members; and
- When are the meetings held and who pays the expenses

While it is essential for every council to have some form of bylaws – whether detailed or simple -- no rule or regulation is cast in stone. Times, circumstances and problems change, so bylaws must contain provisions and procedures for amendment.

Goals and Objectives for Councils

Successful Advisory Councils provide a specific purpose or objective in their bylaws. Typically, the purpose focuses on "improved communication" between franchisees and franchisor. Similar council objectives might be "to discuss matters of mutual interest," "to disseminate information," and "to evaluate franchisor programs and policies." Such "communication" purposes are by no means the only possible objectives for an Advisory Council. However, whatever the scope of the issues to be covered by the Advisory Council, it is important for the bylaws to explicitly state that the Council's deliberations are advisory in nature and that the Council is not conferred decision-making authority, unless of course it is otherwise intended.

Ultimately, the franchisees and franchisor executives who form a council will determine the group's exact purpose. The key is to state objectives clearly so that everyone involved in the council has similar realistic expectations.

Membership on Councils

A balance will need to be struck between adequate representation of all franchised owners and forming a representative group that is not so large as to be unmanageable. An appropriate size is also a function of the scope of the group's purpose and the extent to which committees are used to dealing with specific areas. There are two typical ways of determining Advisory Council membership:

- Franchisees members are appointed by the franchisor; or
- Most often, franchisees members are elected by their peers

Although it is not the norm to have franchisee members of the Advisory Council appointed by the franchisor, an appointment mechanism is sometimes found at the inception of the formation of a Council. The Council is then frequently transformed to an elective body once the Council becomes functional. However, so long as the franchisor appoints members, the franchisor should seek broad representation. Franchisors who select franchisees as members should seek participation of both experienced and new franchisees, as well as a regional mix and a mix of single-unit and multiunit owners.

For an Advisory Council that is elected, one of the politically difficult issues often faced, particularly with a system with multi-unit franchisees, is whether each franchisee gets one vote or gets one vote for each unit. One can easily see how one structure can lead to a disproportionate representation of single-unit franchisees and the other can result in domination by large multi-unit franchisees. Each franchise system will have to address this issue and may have to gerrymander regions or provide for cumulative voting to avoid excessive skewing of franchise representation.

Another threshold issue is whether franchisor executives should become formal members of the Council. This is discussed below under "Franchisor's Role In the Council."

While Advisory Councils typically are composed of franchisee principals, other key people may occasionally be invited to particular discussions in connection with their specific areas of responsibility or expertise. For example, advertising agencies for regional co-ops may be invited to provide input on advertising plans.

Terms of office for council members vary, but are often staggered to provide for continuity.

Council members, whether elected or appointed, usually represent franchisees on a regional basis, rather than at large. Regional boundaries sometimes coincide with the franchisor's regional divisions. In the case of large national or international franchise organizations, each region or country may have its own Regional Council, and several members from each of these Regional Councils will constitute the membership of the "National Council" or the "International Council."

Officers and Their Duties

Councils, like any other organization, function best with a formal leadership team. Council bylaws should specify:

- The number of officers
- How they are appointed
- How long they serve; and
- Their titles and duties

Councils typically have a chairperson, one or two vice chairpersons and a secretary. Council members may serve in each post for one year, moving up through the leadership ranks in succession. For example, a franchisee might first serve as secretary of the council, then serve one or more years as a vice chairperson, and then become the chairperson.

Many successful councils also hold the secretary or some other designated person responsible for taking minutes and forwarding copies to all council members. This information is frequently sent to franchisees on a regular basis.

Committees and Their Functions

Many Councils have standing committees, covering any number of matters, including:

- Operations
- Technology
- Services
- Marketing; and
- Finance

These committees are assigned to examine a particular problem, issue or initiative, arrive at possible solutions, and make recommendations to the full council.

Committees play an important screening role in successful councils, making sure the full council meeting does not get bogged down with details. Committees often will determine if an issue is of general importance and belongs on a Council agenda, or if it is limited to a single franchisee and should be worked out privately with the franchisor.

Regional Councils sometimes perform the functions of committees by considering problems of a regional, local or individual nature. In some cases, the Regional Council resolves the issue without involving the National Council. Problems, issues or initiatives

that are broad in scope, however, merit the attention of the National Council.

Meeting Dates and Locations

Most National Councils meet at least once a year and often times more often on a regular basis. The council committees, or Regional Councils which act as committees, may also hold several meetings a year.

The venue for National Council meetings varies. Often meetings take place at the franchise system's annual convention or at the franchisor's headquarters. Meeting places can also be rotated, so that they take place in different regions of the country.

Setting the Council Agenda

When drafting a set of council bylaws, it can be important to include a provision stipulating that council meetings adhere to a planned agenda, rather than being informal discussion sessions. Council leaders point to this provision as a key element in effective meetings, and in avoiding the pitfalls of meetings which meander away from the intended purpose or turn into "gripe" sessions.

Some Advisory Council meeting agendas are prepared by franchisee members, based on the input of committees or Regional Councils. The agendas are submitted to the franchisor's representatives before the scheduled meeting. Other councils prepare agendas jointly, with franchisees and franchisor each submitting discussion subjects for the meeting.

Advisory Council agendas typically include:

- Operations – facilities, training, operating manuals, assistance with franchisees' in-house training programs, communications and customer satisfaction
- Marketing – advertising, promotion, sales training, long and short-range market forecasting, competitive information and current market position
- Technology – electronic recording, communications and reporting systems
- Finance and Management – financial operations and general franchisee management, standard accounting systems, capitalization, equipment financing, franchisee facilities and personnel, franchisees business continuity and product liability; and
- Products and Services – product and service improvements and applications and new product and service development

Hundreds of other items could be included on an Advisory Council agenda. However, councils must place some restriction on the subject matter which can be slated for discussion.

Franchisor's Role in the Council

A franchisor's involvement in an Advisory Council varies widely and is usually specified in the bylaws. A threshold question is whether franchisor representations should formally be recognized as part of the Advisory Council. Some of the advantages include preventing an "us" against "them" attitude from developing, since the Council will be a joint body that deals with issues of common interest. The participation by franchisor executives is an important ingredient to the cross-fertilization of ideas and the ability to discuss matters of concern before views become entrenched.

On the other hand, an Advisory Council that only has franchise owner representatives may have greater credibility in the eyes of the franchisees. Some members may feel reluctant to speak freely with franchisor executives always present. A Council with franchisor representatives may be viewed as a "company union" that is there to placate franchisees rather than be a real channel of communications.

Each franchise system will have to decide for itself whether franchisor executives should be formally included or excluded from the Advisory Council. To some extent, the issue may be one more of franchisee perception than substance: regardless of structure, the interchange between franchisor and franchisees will occur, and franchisee on the Advisory Council will meet among themselves before discussing matters with franchisor executives, whether as the council itself or through informal caucuses before council meetings, to share their own views.

Regardless whether franchisor representatives are part of the Advisory Council, it is important to the effective functioning of a council that executives of the franchisor with decision making authority meet with the Advisory Council. Without a commitment by the franchisor's top executives to participate, franchisees will perceive that they are unable to get the attention of those making the critical decisions. In the long term, this will severely undermine the functioning of the Council and the franchisor's credibility with its franchisees.

Bylaws that provide for franchisor's participation usually contain a clause which allows the franchisor to have additional staff present who may be specialists in a topic being discussed. For example, if a question concerning franchise sales is on the agenda for a particular session, the Director of Franchising may be invited to attend and add his or her expertise to the discussion, even though he is not a member of the Council.

Expense Policies for Councils

The primary way of supporting Advisory Council activities is for the franchisor to reimburse for the out-of-pocket expenses of the council members. However, it is customary that members serve without compensation. Alternatively, expenses can be shared or covered entirely by franchisees, such as through the payment of dues.

The Importance of a Follow-up Mechanism

When laying the groundwork for an Advisory Council, franchisees and franchisor should include provisions for informing all franchisees of council activities. This builds support for the council and gives the franchisor a means of showing how it is following up on suggestions made at the council meeting.

Councils which have an appointed secretary responsible for taking meeting minutes might consider giving this individual, or another council member, the additional responsibility of communicating information about the council. If the council comprises regional representation, each council member may have responsibility communicating with his or her region.

The means of conveying council information can vary greatly, depending on individual preference, budgetary and time restrictions and other factors. Methods currently in use include website postings, emails, letters, copies or summaries of the minutes, or a special newsletter. How it is accomplished is not important, but it is essential to keep franchisees informed of the group's activities.

Legal Aspects of Council Activities

There are legal implications involved in forming a council and holding meetings. Initially, bylaws should be reviewed by legal counsel, as well as a determination made whether the formation and the functioning of the Advisory Council will need to be disclosed in the franchisor's offering circular. As previously mentioned, the antitrust laws prohibit competitors from engaging in certain concerted practices, such as agreeing to fix prices. These proscriptions are likely to apply to the activities of Advisory Councils and include explicit or tacit agreements on such matters as:

- pricing and possibly price advertising
- who will be getting a franchise
- allocation of territories, unit spacing or encroachment matters
- excluding anyone from membership on the council without cause

This is a highly complex area of the law, and the franchisor and members of the Advisory Council should seek advice of counsel experienced in this area before proceeding with an Advisory Council. Many bylaws stipulate that the franchisor's legal counsel, or one chosen by the franchisee membership, is required to be in attendance at meetings to serve as a legal resource, if needed.

Do's and Don'ts

- Do** have a written set of bylaws or a constitution which spells out the ground rules of your council.

- Don't** consider the bylaws unchangeable. Times change, so include a bylaws provision for making amendments.
- Do** set down some broad goals and objectives when forming your council. They will serve to delineate the direction of your organization.
- Don't** limit attendance at council meetings strictly to franchisees or top executives. Be sure to invite other key people in connection with discussions concerning their particular area.
- Do** have someone responsible for taking minutes at each meeting and for distributing them to council members.
- Don't** let your National Council get bogged down in a flood of tasks which can more appropriately be handled by a standing committee, or by a Regional Council.
- Do** set an agenda for every meeting – then stick to it. It is the only sure way to avoid "gripe" sessions.
- Don't** waste the experience of your council's past presidents. Draw on their experience at appropriate times.
- Do** have franchisor's top management personnel at the meetings, if the franchisor is involved in the council. The presence of lower echelon people signals franchisees that their opinions and problems are not taken seriously.
- Don't** invite hassles regarding who pays for what meeting expenses. Determine in advance which items of council expense franchisees will cover and which items franchisor will pay.
- Do** have a follow-up mechanism which keeps both council members and franchisees generally informed of activities. It builds the council's reputation as an effective organization.
- Don't** create legal problems. Be aware of the legal implications of forming a council and of running meetings.

There is no “one size fits all” approach to council organization.

The following examples range from very simple and basic, to a more comprehensive structure, to a highly organized structure. All have their merits, and you may justifiably conclude that certain aspects of all three may fit your purposes.

As these examples are studied, you may want to jot down some notes on provisions and approaches which would best fit your organization.

**Basic
System of
Organization**

- The United States is divided into seven regions. The National Council is made up of seven franchisees, one elected by the majority of franchisees from each region.
- National Council members are elected for a three-year term. They are not eligible to serve successive terms. Elections are staggered so as to provide continuity from year-to-year.
- The National Council meets twice a year, normally in the Spring and Fall.
- Officers are elected by the board at the first regularly scheduled meeting following the general election. Officers include chairperson, vice chairperson and secretary.
- The franchisor covers the travel and lodging expenses for those attending the National Council meeting.
- Following each meeting, a memorandum is published and distributed to all franchisees giving them a full report on the proceedings of the National Council.

**Intermediate
System of
Organization**

- The United States and Canada are divided into a specified number of council regions. All franchisees are automatically members of a regional group ("Regional Council").
- The Regional Council operates under a permanent five-person Advisory Committee ("Advisory Committee") that is responsible for the overall activities of the National Council, appointment of regional officers, and annual election of a National Council chairperson. Additionally, upon request, the Advisory Committee provides counsel and guidance to regional chairpersons.
- Regional officers include a chairperson and vice chairperson, appointed by the permanent five-member Advisory Committee. Each regional officer serves a two-year term, beginning as vice chairperson and becoming chairperson the following year.

- At least one regional meeting, planned and scheduled by the regional officers, is conducted each year to review proposals and make recommendations to the National Council for consideration as agenda items. Regional officers establish all Advisory Council actions and priorities for their respective regions. Additional regional meetings may be scheduled at the discretion of the regional chairperson.
- There are five National Council committees that function in the areas of operations, finance, services, product or service development and marketing. Each committee is chaired by a Regional Council officer and has a vice chairperson and Advisory Committee member. Each committee meets at least once each year with its franchisor's counterparts within a specified time after the annual National Council meeting. Committee reports are submitted to National Council officers for their consideration at the annual meeting.
- Regional chairpersons meet at least once each year with the permanent Advisory Committee to discuss regional recommendations, policy and development of a tentative agenda for the annual franchisees/franchisees National Council meeting.
- The National Council meets each year at a time specified in the bylaws. Franchisee attendees include the National Council Advisory Committee and all Regional Council chairpersons and vice chairpersons. Names and titles of the franchisor's representatives who participate in the National Council meeting are shown on an attachment to the bylaws. On the day prior to the National Council meeting, all regional officers meet with the National Council Advisory Committee to finalize the agenda.
- Regional officers are responsible for communicating national matters to franchisees within their respective regions.

Advanced System of Organization

Regional Council

- The United States is divided into a series of regions, each having a "Regional Council." All franchisees are automatically Regional Council members within their respective regions as long as they have a contract in force

with the franchisor and pay the dues assessed by the Regional Council.

- Each region has three officers: chairperson, first vice chairperson and second vice chairperson. Only top management of a franchise, or those holding equivalent positions, are eligible to be officers. Regional officers serve for three years. A franchisee is elected by members within his region to the office of second vice chairperson, with automatic succession to first vice chairperson.
- Four regional meetings per year are recommended. The first is to be held with the franchisor's chief executive officer (or alternate) and any additional personnel he would like to include. The second meeting is held primarily for the purpose of preparing agenda items for the National Council meeting. Two other meetings each year are scheduled to take place between franchisees' and franchisor's operations representatives. These operations meetings are designed to resolve questions and problems that require a disproportionate amount of Regional Council and National Council time.
- Only franchisees are allowed to vote at Regional Council meetings. Each franchisee is allowed one vote, regardless of the size of his franchise or number of units.
- Minutes of Regional Council meetings are kept by the second vice chairperson and are routed to all Regional Council members, National Council secretary-treasurer and to the chairpersons of the councils' committees.

National Council

- National Council members are the chair-person, first vice chairperson and second vice-chairperson of each of the Regional Councils. From this group, a National Council secretary-treasurer is elected each year at the National Council meeting. Term of office is four years, with automatic succession to second vice chairperson, first vice chairperson and then national chairperson. Regional officers who are elected National Council officers automatically resign as officers within the Regional Council, and the affected region elects a new regional officer at its next regular meeting.

- The National Council has four standing committees made up of members appointed by the National Council chairperson. These committees are Operations Committee, Technology Committee, Marketing Committee and Finance Committee. The National Council chairperson can appoint, with approval of the National Council, other committees as deemed necessary.
- The National Council has an Advisory Committee whose members are the three preceding National Council chairpersons. The Advisory Committee members attend all National Council meetings and may be called upon at any time by the National Council chairperson for advice and counsel or to handle special assignments.
- The National Council meets annually at such a time and place decided upon at the previous annual meeting. The chairperson, in cooperation with the franchisor, may call additional National Council meetings or informal meetings within the various regions.
- Voting at National Council meetings is restricted to one vote per region, cast by the regional chairperson, or in her absence, by the first vice chairperson and so on down the line. The only National Council officer eligible to vote is the National Council chairperson, who may cast a vote in the case of a tie.
- Minutes of National Council meetings are kept by the National Council secretary-treasurer and are routed to all franchisees who are members of the National Council.
- Expenses incurred by the National Council chairperson, first vice chairperson, second vice chairperson and secretary-treasurer will be reimbursed by the franchisor.

SAMPLE BYLAWS FOR ADVISORY COUNCILS

These sample bylaws are for an unincorporated association. They may not comply with applicable law in your state. Your legal counsel should review these bylaws to ensure they comply with state law. You should note that the existence and terms of your Advisory Council program may require disclosure in your franchise offering circular.

Franchisee Advisory Council No. 1 *(Franchisor Name)*

NATIONAL ADVISORY COUNCIL BYLAWS

Article 1 NAME

The Council shall be known as the (Franchisor Name) National Advisory Council.

Article II OBJECTIVE

The Council will consist of a representative group of franchisees who will meet periodically with the management of (Franchisor Name) to review plans and discuss other matters of common interests.

The purpose of the Council is to promote constructive, open and two-way communications between all of the franchisees and the management of (Franchisor Name). In addition, it is the desire of (Franchisor Name) to make the franchise owner an integral part of our planning as we grow and develop our franchise system. Finally, it is recognized that a group of this type can be instrumental in addressing and resolving concerns of general interest before they develop into major issues.

It is understood that the Council serves in an advisory capacity and does not have authority to establish or modify the policies of (Franchisor Name). However, (Franchisor Name) management will take into consideration the input of the Council in formulating plans, programs and policies which affect franchisees.

**Article III
MEMBERSHIP**

Section 1 - Eligibility.

Any franchise owner in good standing is eligible for election or appointment to the National Advisory Council.

Section 2 - Representation.

The members of the National Advisory Council will represent various geographical areas of the country. Initially the country will be divided into [_____] areas based on geography as well as the number outlets open and operational in a given area. Initially the [_____] area will be defined as follows:

As our franchise system grows and expands, the National Advisory Council will have the authority to alter geographical boundaries and expand the representation. However, for the sake of efficiency in communication, the National Advisory Council membership will be limited to 12 members.

Section 3 - Term of Office.

Each member will be elected for a three-year term of office. No member may serve two consecutive terms. Elections will be staggered so as to provide continuity from year to year.

Section 4 - Elections Procedures.

Elections will be held in the spring of each year, either in conjunction with the National Convention or the Regional Conferences. If this cannot be easily facilitated, elections may be held via mail. A slate of candidates will be presented and each franchise owner in good standing in a given area will have an opportunity to vote for the representative for his or her area. Each franchise will be eligible to cast one vote [alternative: one vote for each unit or outlet he or she owns in the designated area]. Nominations of candidates for membership on the National Advisory Council may be made by any franchise owner in good standing prior to the published deadline.

**Article IV
OFFICERS**

Section 1: Election of Officers.

The officers of the National Advisory Council shall be as follows: Chairperson; Vice Chairperson; and Secretary. These officers shall be appointed annually by the National Advisory Council at the first regularly scheduled meeting following the general election,

The Officers shall be elected for a one-year term with the Vice Chairperson ascending to the office of Chairperson. This will provide continuity in conducting the business of the Council.

Section 2: Duties of the Officers.

Chairperson

The Chairperson shall preside at all meetings of the National Advisory Council. He or she will perform the duties of the office, including the appointment of all committees. He or she will be an ex-officio member of all committees.

Vice Chairperson

In the absence of the Chairperson, the Vice Chairperson will preside. He or she will specifically be responsible for coordinating the annual election of Council members and coordinating the election or appointment of new members as vacancies occur.

Secretary

The minutes of each meeting will be recorded by the Secretary and distributed to all franchisees in the system.

**Article V
COMMITTEES**

At the discretion of the National Advisory Council, committees may be formed to address such topics as advertising and operations.

**Article VI
MEETINGS**

It is anticipated that the National Advisory Council will meet twice each year. Where possible these meetings will be conducted in conjunction with the National Convention. Other meetings will be held at the (Franchisor Name) headquarters in (location). A notice of the date and place of the meeting, as well as the agenda and supporting materials will be sent out in advance.

While these meetings are primarily designed for an exchange of information, parliamentary procedures will be followed wherever possible.

**Article VII
EXPENSES**

(Franchisor Name) will cover the expense associated with the two scheduled National Advisory Council meetings. Travel expenses will be covered for each member who attends the Council meeting.

[In addition, (Franchisor Name) will reimburse the Council members for reasonable expenses incurred in communicating with their constituents.]

Article VIII COMMUNICATIONS

One of the major purposes for forming a Council of this type is to provide better communication to the franchisee. Hence, each member of the Advisory Council will be asked to report to the other franchisees in their respective areas. This will be facilitated by a National Advisory Council newsletter which will be published after each meeting. In addition, members of the National Advisory Council may be asked to give a report to franchisees attending the National Convention, Regional Conferences and other meetings of this type.

Article IX AMENDMENTS

Amendments to these Bylaws may be proposed and adopted at any regularly scheduled meeting of the National Advisory Council. In these situations, a majority of the members must be present to constitute a quorum, and the vote of a majority of those present will prevail.

Franchisee Advisory Council No. 2

(Franchisor Name)

NATIONAL ADVISORY COMMITTEE BYLAWS

Article I NAME

National Advisory Committee (NAC).

Article II PURPOSE AND OBJECTIVES

Section 1: Purpose.

NAC will engage in activities and programs to improve and strengthen the sales and profits of National Franchisees (Franchisees).

Section 2: Objectives.

1. Advise National Inc. (Franchisor) on the image and customer services to be offered in the National Franchise System.
2. Assist Franchisor in coordinating advertising efforts among the various Franchisee Local Advertising Committees (FLACs).
3. Assist Franchisor in producing, reviewing and placing authorized advertising.
4. Aid Franchisor in enforcing payment of Franchisee's Local Advertising Contributions and in returning one-half of individual Franchisee Advertising Fees when appropriate.
5. Convey to Franchisor Franchisee input on merchandising, promotion, and the provision of products and services.
6. Promote the exchange of ideas among Franchisees and relay ideas and information to all Franchisees.
7. Correlate Franchisee suggestions. Review recommendations on System-wide operations and services.

Article III OPERATIONS

Section 1: Regions.

Franchisees within North America shall be divided into nine regions, the territorial boundaries of which shall be determined and reviewed annually by NAC.

Section 2: Members.

NAC shall consist of three (3) members. Each must be the owner or a principal of a different Franchisee and must have previously been elected as a Regional Delegate, as outlined below. No more than one delegate from any region shall serve as an NAC member at any one time.

No franchisee may serve on the NAC who at the time of his or her election has either been the owner of an operating National store for less than six months, or has had less than three years prior franchising management experience, and who has not announced his candidacy on or before September 1 of the year in which he or she is running. One of the three NAC members must own a Canadian franchise.

Section 3: Elections.

Franchisees present at the annual convention shall meet and elect Regional Delegates by secret ballot majority vote. Each Franchisee may cast one vote for each operational store he or she owns in each region at the time of the convention. Franchisees absent from the convention may not vote. Regional Delegates shall serve a one-year term that begins on the day they are elected. Regional Delegates may be re-elected for a limit of three consecutive terms, after which they may not serve for one year before being eligible for re-election.

The nine Regional Delegates shall elect from among their number one new member of the NAC, by a majority vote of the delegates present at the annual convention. Each Regional Delegate will have one vote. The new NAC member so elected shall remain a Regional Delegate. However; the franchisee from such region shall elect, at the annual convention, a new Regional Delegate for that region. Thus, two Regional Delegates will serve that region for that year.

REGIONAL DELEGATES MAY NOT CONDUCT VOTES FOR ANY PURPOSE OTHER THAN THE ELECTION OF NAC MEMBERS.

Article IV
TERM OF OFFICE

Each NAC member shall serve for a period of three years. During this or her three-year term, an NAC member shall serve the first year as Secretary, the following year as Vice Chairperson, and the last year as Chairperson. After serving as Chairperson of the NAC, a delegate may not be re-elected for a period of one year either to the NAC or as a Regional Delegate.

In 200__, the Regional Delegates will elect all three members of the NAC in three separate elections. The delegate elected Chairperson in 200__ shall serve one year. The delegate elected Vice Chairperson shall serve two years. The delegate elected Secretary shall serve three years.

Two NAC members may remove the third NAC member from office for neglect, refusal to perform duties, or misconduct, at any regular NAC meeting or at a special meeting called for that purpose; provided written notice of the alleged wrongful acts shall be given to all NAC members and current regional delegates at least 30 days prior to such removal. If all of an NAC member's operating franchises are sold or otherwise terminated, incapacitated, resigned or absent NAC member shall be temporarily filled by the most recent Chairperson of the NAC. Should he or she be unable to serve, the prior Chairperson shall serve, and so on. The unexpired portion of such member term shall be filled by majority vote of the newly elected Regional Delegates at the next convention. If a regional delegate is terminated or sells his or her franchise, the owners in that region shall be polled by ballots sent by the franchisor, and a new Regional Delegate shall be elected to replace the former. In cases of absence of an NAC member, the prior year's Chairperson will replace the absent member only for that one meeting from which he or she is absent.

NAC members and Regional Delegates shall be in office beginning on the day they are elected. The terms of NAC members shall expire on the date the annual elections are held three years later, unless earlier terminated.

Any Franchisee may serve as a FLAC manager while serving as a NAC member or Regional Delegate.

Article V
EXPENSES

Franchisor shall reimburse NAC members for their actual individual expenses to attend all NAC meetings except the annual convention. Only transportation (if by air, coach class) and lodging expenses actually incurred may be considered and authorized. Franchisor shall determine meeting locations and accommodations.

**Article VI
DUTIES AND POWERS OF NAC**

Section 1: Chairperson.

The Chairperson shall coordinate and schedule NAC meetings with Franchisor's Chairperson or President and shall preside as executive head of such meetings.

Section 2: Vice Chairperson.

The Vice Chairperson shall assist the Chairperson and, in his or her absence, shall act as the Chairperson.

Section 3: Secretary.

The Secretary shall keep the full and accurate records of all meetings of the NAC, handle necessary correspondence and send data to Franchisees when necessary.

Section 4: General Duties and Powers.

The NAC shall foster communication between Franchisor's management and Franchisees and shall promote an interchange of ideas to develop better mutual understanding.

This purpose and responsibility will be accomplished through continuous review and recommendations on existing and proposed programs. All recommendations and comments are to be restricted to System-wide issues.

**Article VII
AMENDMENTS**

These Bylaws may be altered, amended, or repealed by the express vote of 75 percent of the Franchisees with open stores, who are present at the annual convention. Franchisees must be given written notice 30 days before proposed alterations amendments or repeal are voted upon.

FRANCHISEE ADVISORY COUNCIL NO. 3

Statement of Purpose

The (franchisor name) Franchisee Executive Council maintains an open line of communication between top management of the company and the franchisees.

Through more personal contact on an organized basis, the Council will promote and interchange of ideas that will result in better mutual understanding and the solution of equipment marketing problems. The goal is continued growth and profitability of (franchisor name).

Organization

Advisory Committee

The Council shall have a permanent five-person Advisory Committee. Upon resignation of any member, the remaining Board members will fill the vacancy.

The Board will:

Oversee that the purpose and activities of the Council are sustained on an active basis.

Provide counsel and guidance to regional chairpersons only upon request on matters of policy and suggestions for areas of study at the regional level.

Assure adequate communication of Council activities.

Be responsible for appointing new regional officers to Council, and make necessary replacements, or fill vacancies.

Provide annually the Chairperson for the Council on a rotating basis.

Announce each year the appointments of new Council members at the National Council meeting.

Council Regional Officers

Regional officers shall consist of a Chairperson and A Vice-Chairperson.

Each officer will serve a two-year term functioning as Vice-Chairperson the first year and Regional Chairperson the second year.

The Regional Officers will be responsible for:

Planning and scheduling regional meetings of all franchisees.

Conducting a minimum of one franchisee Regional meeting each year to review proposals and documents, and recommending an appropriate Council action on franchisee/franchisor problems and Council policies and programs.

Identifying and coordinating regional problems, and establishing regional proposals on specific subjects.

Coordinating regional activity with other Regional Chairpersons involving matters related to general domestic franchisee interest. Communicating all Council matters to the entire franchisee organization in their regions.

Regional officers will attend all joint meetings scheduled with the National Advisory Committee; and with (franchisor name).

The Regional officer will meet annually, and as required, to consolidate regional problems and recommendations, and to establish priorities for Council action.

Regional officers will retain the prerogative to schedule all meetings and to assure action on all Council matters is continuing.

Regional officers will establish all Council action and priorities for their region and refer to the National Advisory Committee for counsel and guidance only.

Council Committees

Five Council Committees will function in the following areas:

- Finance
- Operations
- Services
- Product and Service Development
- Marketing

Each Committee will be chaired by a Council Regional Officer and have a Vice Chairperson and an Advisory Committee member.

Each Committee will be responsible for studying and acting upon recommendations and comments originating in annual regional meetings. Appropriate reports with conclusions are to be submitted to

the Council Officers for their consideration at the Regional Officers Meeting and National Council meetings.

Each Committee shall have at least one meeting per year with its (franchisor name) counterparts within ninety days after the annual Council Meeting in March.

Critical or emergency matters, at the discretion of the National Advisory Committee, will be referred to (franchisor name) for its study and advice at any time.

Meetings

National (Franchisor Name) Franchisee Joint Meeting

National Council meetings will be held each year, between February 20 and March 31. Franchisee attendees will include the National Advisory Committee, and Council Regional Chairpersons and Vice Chairpersons.

One day prior to the Joint Meeting the Regional Officers will meet with the National Advisory Committee to finalize the agenda for the Joint meeting.

Council Regional Chairperson Meeting

A minimum of one meeting will be held each year with the Advisory Committee. This meeting will be held the day preceding the annual IFA Convention, at the IFA convention site.

Regional Chairpersons will review and discuss the Regional recommendations on problems, activity, and Council policy and establish priorities and a tentative agenda for the annual meeting with (franchisor name).

Regional Meetings

A minimum of one meeting of all franchisees will be conducted by the Regional Chairpersons during the period October 1 to November 15 each year. Additional meetings may be scheduled at the discretion of the Regional Chairpersons, or as requested by franchisees in each region.

Regional Chairpersons will solicit reports on Committee assignments and resolve the regional position on all such matters

The Regional Chairperson will report on all domestic activities of the Council and document regional opinions for presentation at Council meetings when necessary.

FRANCHISEE ADVISORY COUNCIL NO. 4

ARTICLE I Name

(Franchisor Name) Franchisee Council

ARTICLE II Purpose and Objectives

Section 1: Purpose

This organization shall be composed of a representative group of *(franchisor name)* Franchisees who will meet periodically with the management of *(franchisor name)* to discuss mutual problems.

Section 2: Objective

The objective of this organization shall be to correlate the thinking and improve the position *(franchisor name)* Franchisees and *(franchisor name)* with relation to operations and marketing of *(franchisor name)* products and services, and then to present the findings through the National Council to the management of *(franchisor name)* for consideration.

ARTICLE III Operations

Section 1: Area Groups

(Franchisor name) Franchisees within the United States shall be divided into seven Area Groups, the territorial boundaries of which shall be determined from time to time by the National Council.

Section 2: Area Members

(Franchisor name) Franchisees within each Area, as outlined in Section 1 above, shall be members of such Area so long as they have a franchisee contract with *(Franchisor name)* in that Area, and pay their dues as assessed by the Council.

Section 3: Area Meetings

It is recommended that each Area have at least two meetings per year. The first meeting is to be held in the spring or early summer with the Chief Executive Officer of *(franchisor name)* or his or her designee in attendance, along with any of his or her management personnel he or she would like to have present.

A second meeting is to be held later in the year, at least forty-five days prior to the Annual National Council meeting, which shall be held between November 1 and 15 each year. The principal purpose of the second Area meeting shall be to prepare an agenda for the National meeting. Copies of the minutes of Area meetings shall be

sent to the National Council Secretary and each group member at least thirty days prior to the Annual National Council meeting.

In order to eliminate "nuts and bolts" discussions at the Area meetings and the Annual National Council meeting, it is recommended that each Area have at least two additional meetings a year for all Operations Managers with franchisor's representatives in attendance. Minutes of these meetings are to be kept, and copies sent to the National Council Secretary-Treasurer and to the Committee Chairpersons.

Subjects to be presented for discussion must be confined to subjects listed in Article II. Section 2. Prices and/or discounts shall not be discussed in Area meetings.

Section 4: Area Elections

Area groups shall hold an election each year at their spring/early summer meeting.

Each Franchisee member present shall be entitled to only one vote on each matter that may come up for vote.

Each Area Group must have three Delegates:

- Senior Delegate
- First Alternate Delegate
- Second Alternate Delegate and Secretary

Delegates shall be elected, by a majority vote of the members present, to serve for a three-year period as follows:

- The first year as Second Alternate Delegate and Secretary
- The second year as First Alternate Delegate
- The third year as Senior Delegate

If for any reason the term of office of a Delegate is terminated, another Delegate shall be elected by that Area Group. The new Delegate will start as Second Alternate Delegate and the other Delegates already in office will automatically move forward.

Only principals of a Franchise (owners, Officers) are eligible to be Delegates. In Area Groups the Senior Delegate will also be the Area Chairperson, the First Alternate Delegate will also be the First Vice-Chairperson, and the Second Alternate Delegate and Secretary will also be the Second Vice-Chairperson of that Area Group.

Section 5: Area Policy

If for any reason a Franchisee's contract with (franchisor name) is terminated, such Franchisee is automatically terminated as a member of the Area Group. Likewise, the membership in the National Council of any person who is part of such franchise shall automatically terminate.

ARTICLE IV

Duties and Powers of Area Group Delegates

Section 1: Senior Delegate

The Senior Delegate (or his or her Alternate) shall, with notification of the National Council, schedule and hold regular and special Area Group meetings. He or she shall be in charge of such meetings and see that they are conducted properly.

In the absence of Alternate Delegates at such meetings, the Senior Delegate shall appoint a member pro tempore. Permanent vacancies shall be filled by majority vote of the Area Group Members present at the next Area Group Meeting following such vacancy.

Only Franchisees are allowed to vote at Area Group meetings.

Section 2: First Alternate Delegate

First Alternate Delegate shall assist the Senior Delegate, and in his or her absence shall preside as Senior Delegate.

Section 3: Second Alternate Delegate and Secretary-Treasurer

Second Alternate Delegate and Secretary-Treasurer shall assist the Senior Delegate and First Alternate Delegate, and in their absence shall preside as Senior Delegate. The Second Alternate Delegate and the Secretary-Treasurer also shall keep full and accurate records of all transactions for the Area Group including the minutes of all meetings (regular or special), and conduct the affairs of the office and/or department in handling all correspondence and other data, when necessary, as requested by the membership.

ARTICLE V

National Council Organization

Section 1: Members

The National Council Members shall consist of:

Three Delegates from each Area Group

- Senior Delegate
- First Alternate Delegate
- Second Alternate Delegate and Secretary-Treasurer

Four Officers

- Chairperson
- First Vice-Chairperson
- Second Vice-Chairperson
- Secretary and Treasurer

Three Advisory

- The three preceding National Council Chairpersons and up to three additional members who may be invited at the discretion of the National Chairperson.

The following Committee Chairperson shall be in attendance:

- Chairperson of Operations Committee
- Chairperson of Finance committee
- Chairperson of Service Committee
- Chairperson of Marketing Committee

Section 2: National Council Meetings

There shall be one meeting of the Council each year to be held between November 1 and 15, which shall be designated as the "Annual National Council Meeting." At each such meeting, the time and place of the next annual meeting shall be determined. The Chairperson, with appropriate notice, may call additional meetings of the Council from time to time and may, in cooperation with representatives from the (franchisor name), co-sponsor informal meetings periodically within the various areas embraced by the Council.

Subjects to be presented by the Area Delegates for discussion and consideration by the National Council must be confined to subjects listed in Article II, Section 2. Prices and/or discounts shall not be discussed in National Council meetings.

Copies of the minutes of the National Council meetings shall be sent to all (franchisor name) Franchisees who are members of the National Council.

Section 3: National Council Elections

The National Council shall hold elections at their annual meeting for the purpose of electing National Council Officers by a majority vote of the National Council Members present. Officers of the National Council shall be elected for a period of four years to serve, as follows:

- first year as National Council Secretary and Treasurer
- second year as National Council Second Vice-Chairperson
- third year as National Council First Vice-Chairperson, and;
- fourth year as National Council Chairperson

If the term of an officer is terminated, another officer shall be elected by the National Council. Unless specifically elected by the Council to a different position, the new Officer will start as Secretary and the other officers already in office will automatically move forward.

Members who have previously served as officers of the National Council shall not succeed themselves in such offices.

When an Area Delegate is elected as a National Council officer, he or she is automatically terminated as a Delegate.

Delegates must be present to vote on matters presented to the National Council. In the case of a tie vote, the National Council Chairperson must vote.

Delegate voting priority shall be as follows:

- the elected Area Delegate shall cast the vote for his or her represented area;
- in the event of his or her absence the First Alternate Area Delegate shall cast the vote for said area, and;
- in the absence of both Delegates, the Delegate and First Alternate, the Second Alternate Delegate shall cast the vote for the represented area.

Section 4: National Council Policy

Any member of the National Council shall be automatically terminated when his or her respective franchisor terminates its (franchisor name) Franchisee's contract.

Any Officer may be removed from office, for neglect, refusal to perform his or her duties, or misconduct, by a three-fourths vote of the National Council membership present at any regular meeting, or at a special meeting called for that purpose, provided that notice shall be given to the accused at least thirty days prior to such special meeting. Actual individual expense shall be reimbursable by the (franchisor name) Franchisee Council to the following individual officers:

- Chairperson
- First Vice-Chairperson
- Second Vice-Chairperson

- Secretary-Treasurer

Only those expenses actually incurred by said individual officers may be considered and authorized by the National Council.

Section 5: Amendments

The bylaws of the organization may be altered, amended, or repealed by a majority vote of the National Council membership present at any regular or special meeting of the National Council, provided the written notice of the proposed alterations, amendments or repeal are sent to the members with the call for such meeting at least thirty days prior to date of the meeting.

ARTICLE VI

Duties and Powers of National Council Officer, Delegates and Advisors

Section 1: Chairperson

The Chairperson shall schedule and hold National Council meetings and he or she shall preside as executive head of such meetings. He or she shall enforce the laws and execute the orders of the National Council. In the absence of other National Council Officers, he or she shall appoint someone pro tempore to fill such vacancies. He or she shall also appoint, subject to the approval of the other members of the National Council, committees to meet with various departments of (franchisor name) for the purpose of discussing matters of common interest.

In the case of a tie vote of the National Council, he or she will have to vote.

Section 2: First Vice-Chairperson

The First Vice-Chairperson shall assist the Chairperson and, in his or her absence, shall act as Chairperson.

Section 3: Second Vice-Chairperson

The Second Vice-Chairperson shall assist the Chairperson and First Vice-Chairperson and, in their absence, shall act as Chairperson.

Section 4: Secretary and Treasurer

The Secretary and Treasurer shall keep full and accurate records of all transactions including the minutes of all meetings of the National Council, conduct the affairs of the office relating to his or her department, handle the necessary correspondence and send data to members when necessary.

Section 5: Delegates

Delegates shall attend the National Council meetings as representatives of their respective Area Groups. Delegates are the

only members of the National Council who can vote on each matter which comes up for National Council vote. Each area shall be entitled to one vote. The Delegates must bring before the National Council only subjects for discussion which they have been requested to present by their respective Area Group.

Section 6: Advisory Committee

The three members of the Advisory Committee will attend all National Council meetings and may be called on at any time for their advice in connection with the National Council, but they are not entitled to vote on matters brought before the National Council.

SAMPLE AGENDAS

AGENDAS

AGENDA 1

Tuesday

Dues, Treasurer's Report

Television production cost memorandum

Association

Lunch

Delivery expense figures

Franchisee requirements

Adjournment

Wednesday

Uniform discussion

Advertising format

Death clause report

Lunch

Bookwork and policy manual ideas

Adjournment

Thursday

Review current training tapes

New tape priorities

Sponsorship program management contracts

Lunch

Three percent advertising contracts

Signs

Brainstorming

Adjournment

AGENDA 2

Tuesday

Call to order and attendance

Approval of the minutes of the last meeting

Treasurer's Report

Report by Building Committee

Bull session

Break for lunch

Insurance Report

Discussion of equipment and supplies

Election of Vice-President

Training update by Training Director

Uniform update

Adjournment

Wednesday

Call to order and attendance

Brainstorm training and supervising of managers

How to train managers and supervisors

Break for Lunch

Agenda for next meeting

Adjournment

Thursday

Call to order

Wrap up Q & A

Break for Lunch

Adjournment

AGENDA 3

Monday

Call to Order

Election of Secretary

Presentation of Corporation License Agreement and new
Standard License Agreement

Litigation and Reorganization Consideration by
Licensee's Advisory Committee

Retirement Plan for Licensees

Lunch

Reports from Board Members on questions within their
areas

Report by chairman

Report on Salary Continuation Insurance Cocktails

Dinner

Tuesday

Discussion by Advisory Committee and Executive
Officers

(1) License Agreements

(2) Litigation

(3) Composite of Area Reports

Unfinished business

Plans for Next Meeting

Adjourn

SAMPLE LETTER

(Franchisor Name)

SUBJECT: Formation of the National Advisory Council

Dear Franchise Owner:

The success of any business relationship is dependent on frank, honest, on-going communications between all parties. This is especially true in any franchise system. If we are going to continue to grow and meet the needs of our franchisee, it is important that we have an ongoing dialogue between the management of (Franchisor Name) and our franchisee. Today this is accomplished in many ways, including regional conferences, national conventions, periodic visits, phone calls, newsletters, memos, etc. However, these methods in themselves are not sufficient. While they provide sufficient feedback, they do not allow the franchisees to participate in formulating the plans and programs which affect the entire system.

Based on the input that we have received from many owners, we feel we would benefit from the establishment of an advisory council. This council will be made up of franchisees from all parts of the United States. Members of this first advisory council will be elected by the franchisee.

The National Advisory Council will meet twice a year. At these meetings (Franchisor Name) will review its plans and programs and request input from the Advisory Council. In addition, the Advisory Council will bring to the attention of (Franchisor Name) issues which are of concern to the franchisees in their area. All franchisees are encouraged to provide their representatives with input for the National Advisory meeting. The minutes of the meeting will be published and distributed to all franchisees so that they may be kept informed of what took place at the meeting.

Attached is an agenda for the first meeting which will be held on November 3 and 4, 200_ at (Franchisor Name) corporate offices located in (Franchisor Location). If you have any thoughts regarding the topics which appear on this agenda or other items which you wish to have addressed at this meeting please feel free to contact the National Advisory Council member representing your area of the country. If it is not convenient for you to contact this individual directly, do not hesitate to give me a call.

Obviously, as we expand in different parts of the country it will be necessary to restructure the National Advisory Council in order to have a balanced representation. However, I feel we are taking an

important first step and I hope that each of you will take advantage of this vital communication vehicle.

Sincerely,

(Franchisor Name)

SAMPLE NOMINATION FORM

(Franchisor Name or Logo)

**CANDIDATE QUALIFICATIONS FORM FOR
REGIONAL DELEGATES & ADVISORY COMMITTEE**

At the annual convention in Acapulco, Sept. 29-30, franchisees will be participating in the election of nine Regional Delegates and one new officer for the National Advisory Council (NAC). The NAC consists of three officers who have been selected by the delegates to supply input from the field to the company and make recommendations at four meetings each year.

Participation is voluntary, but a number of qualifications must be met to ensure that all Regional Delegates and NAC members are fully qualified to serve. The NAC and the company have agreed on the following qualifications for all candidates. Please read them carefully, as no exceptions can be allowed.

To serve as a Regional Delegate or NAC member, a franchise owner must:

- Be present at the annual convention;
- Have had a (Franchisor Name) store open and operating on or before April 1, 200_ or have had at least three years prior experience in franchise management;
- Have completed the questionnaire below and returned it to (Franchisor Name) so that it is in the company's possession on or before August 1, 200_

All questionnaire responses will be published verbatim by (Franchisor Name) prior to the convention, so that all franchisees will have the opportunity to review them.

1. Your name _____ NAC Region _____
2. How many open (Franchisor Name) franchise units do you currently have? _____
3. When was your first unit opened? _____

4. How many full-time employees are involved in your operation? _____
5. How many part-time employees are involved in your operation? _____
6. Are you actively involved in the management of your stores?

7. Briefly describe your activities in your operations _____

8. What other business experience do you have? _____

9. In what ways will your experience benefit the NAC? _____

10. How do you perceive the role of the NAC? _____

11. Why do you want to serve on the NAC? _____

12. What do you see as the most important issue facing
(Franchisor Name) today? _____

13. If you are elected, how would you proceed to solve this problem? _____

Please send your completed questionnaire to (Franchisor Name and Address).

BYLAWS

OF

[] ADVISORY COUNCIL

ARTICLE I

Purposes and Powers

Section 1. Purposes. The [] Advisory Council (“AC”) is created by [] (“[]”) as a formal channel of communications between [] and its franchise community through regular meetings between management personnel of [] “[] Representatives”)and representatives of []’s franchise community (“Franchisee Representatives”) to consider matters of mutual interest in a spirit of mutual respect and cooperation. ([] Representatives and Franchisee Representatives shall be collectively referred to as “Members” of [].) It is the intent that the [] Representatives act on behalf of [] with due consideration of the interests of the entire [], and that the Franchisee Representatives act on behalf of the [] franchise community (or the particular region that each represents) with due consideration of the interests of the entire [], in order to enhance and strengthen the system.

Section 2. Powers. The [] acts only in an advisory capacity, making recommendations, when appropriate, to [] and the franchise community, and shall not have the power to bind [], any [] franchisee, or any other person or entity.

Section 3. Definitions. All capitalized terms used without definition in these Bylaws shall have the meanings assigned to such terms in Exhibit A.

ARTICLE II

Members of []

Section 1. Members. The [] shall have eleven (11) Members. The number of []

Representatives shall be four (4); the number of Franchisee Representatives shall be six (6). In addition, the person selected by [] annually as the Franchisee of the Year (and if such person already is a Franchisee Representative, then the Runner-Up for Franchisee of the Year) shall serve as a member of the [] during the year so selected.

Section 2. Appointment of [] Representatives. [] shall have the right, from time to time, to appoint any officer or director of [] to serve as a [] Representative of the []. [] shall have the right to remove any [] Representative at any time without cause and may fill any vacancies (whether by resignation, removal or expansion of [] Representative seats) with any officer or director of [].

Section 3. Election of Franchisee Representatives. Each Franchisee Representative shall be elected in accordance with Article III and shall serve for a term of two (2) years; provided, however, that in the first election, three (3) of the Franchisee Representative seats (based on regional representation as determined by the []) shall serve for one (1) year in order to stagger Franchisee Representative elections. No Franchisee Representative shall serve for more than two (2) consecutive terms. Each Franchisee Representative shall hold office until his/her successor is elected and qualified or until his/her earlier resignation or removal.

Section 4. Vacancies of Franchisee Representative Seats. Any vacancy occurring in a Franchisee Representative seat of the [] may be filled by the affirmative vote of a majority of the then members of the [], although less than a quorum, provided, however, a vacancy resulting from an increase in the number of Franchisee Representatives shall be filled by an election held pursuant to Article III. Each Franchisee Representative so elected shall serve for the remaining term of the vacant seat and shall hold office until his/her successor is elected and qualified or his/her earlier resignation or removal.

Section 5. Annual Meeting. A regular annual meeting of the [] shall be held at such time, date and place during []'s first fiscal quarter of each year as the [] may determine by resolution from time to time.

Section 6. Regular Meetings. The [] may provide by resolution the date, time and place for the holding of regular meetings, other than the annual meeting of the [], without other notice than such resolution.

Section 7. Agenda Items and Materials. The Chairperson shall establish an agenda for each annual and regular meeting of the [] based on agenda items submitted to the Chairperson by Members and shall cause the Secretary to distribute the agenda (and any materials to be considered in connection with the agenda) to each Member at least ten (10) days prior to such meeting. To the extent [] Representatives submit agenda items and/or materials that are identified by [] as confidential, the Members of [] shall hold such information strictly confidential, unless otherwise approved in writing by [].

Section 8. Special Meetings. Special meetings of the [] may be called by the Chairperson upon ten days notice to each Member, and special meetings shall be called by the Secretary on like notice upon the written request of at least [3] [] members then in office. Such special meetings shall be held on such date and at such time and place as shall be designated in the notice of the meeting by the person or persons calling the meeting.

Section 9. Notice; Waiver of Notice. Whenever any notice of a meeting of the [] is required to be given under provisions of these Bylaws, (a) such notice shall be given either personally or by mail addressed to the member at his or her address as it appears on the records of the [] and, unless otherwise provided in these Bylaws, at least ten (10) days before the date designated for such meeting, or (b) a waiver thereof in writing, signed by the person or persons entitled to such notice and filed with the records of the meeting, whether before or after the holding thereof, shall be equivalent to the giving of such notice. Notice shall be deemed given at the time when the same is personally delivered or deposited in the United States mail, with postage thereon prepaid. The purpose and agenda of any special meeting of the [] shall be specified in the notice of such meeting. Presence at any meeting without objection shall constitute waiver of any required notice.

Section 10. Quorum and Vote at Meetings. At any meeting of the [], a majority of the members in office shall be necessary and sufficient to constitute a quorum for the

transaction of all business. A majority of the votes cast at a meeting of the [], duly called and at which a quorum is present, shall be sufficient to take or authorize action upon any matter which may properly come before the meeting, unless the concurrence of a greater proportion is required for such action by these Bylaws. If, at any meeting of the [], there shall be less than a quorum present, a majority of those present may adjourn the meeting, without further notice, from time to time until a quorum shall be present. At any adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified.

Section 11. Action Without Meeting. Any action required or permitted to be taken at a meeting of the [] may be taken without a meeting if a consent in writing, setting forth such action, is signed by all of the members, and such written consent is filed with the minutes of proceedings of the []. Such consent shall have the same force and effect as an unanimous vote.

Section 12. Telephone Meetings. Members of the [] may participate in a meeting of the [] by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall constitute presence in person at such meeting.

Section 13. Resignation of Members. Any Member may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time be specified, at the time of its receipt by the Chairperson or Secretary. The acceptance of a resignation shall not be necessary to make it effective.

Section 14. Removal of Members. Members may be removed, with cause, at any meeting of the [] duly called and at which a quorum is present, by a majority of the votes cast at such meeting. Cause shall include, without limitation, failure to attend two (2) or more duly called [] meetings during any calendar year or failure to adhere to these Bylaws, including obligations to hold confidential information in confidence. If (a) any [] franchise with which a Franchisee Representative is associated is terminated with cause by []; or (b) all [] franchises with which a Franchisee Representative is associated is terminated (for whatever reason) or transferred to an independent third party,

then such Franchisee Representative shall be automatically and without notice, be terminated effective immediately.

Section 15. Compensation and Reimbursement.

Members of [] shall not be entitled to compensation for their services as members. Members of [] shall be entitled to reimbursement from [] for any reasonable expenses incurred in attending meetings of the [] in accordance with []'s policies for expense reimbursement.

ARTICLE III

Election of Franchisee Representatives

Section 1. Voting Rights. Franchisee Representatives shall be elected annually by [majority vote] [plurality vote] by Franchisees In Good Standing in accordance with these Bylaws, with three (3) seats being subject to election each year. Each Franchisee In Good Standing shall have the right to cast one (1) vote for each Franchisee Representative seat open for election, provided however that all Franchisees that are part of an Affiliated Group, as reasonably determined by [] from time to time, shall be entitled collectively to only one (1) vote for each Franchisee Representative seat open for election. Each Franchisee in an Affiliated Group must be a Franchisee in Good Standing in order for the Affiliated Group to have the right to vote.

Section 2. Regional Representation. The [] shall establish six (6) geographical regions in the U.S. from which the Franchisee Representatives shall be nominated. Only those Qualified Persons associated with Franchisees or Affiliated Groups that have one or more [] Bread Bakery Cafes in a region shall be eligible to be nominated for such region; however, all Franchisees In Good Standing, regardless whether located in a particular region, shall be eligible to vote for the Franchisee Representatives for any region. If there are no Qualified Persons nominated in accordance with the []'s procedures from a region for which the seat is subject to election, then the [] may elect a Qualified Person for such seat (such person shall not be required to be associated with a Franchisee that has one or more [] in such region).

Section 3. Nominations. Subject to the provisions hereof, any Qualified Person may be nominated in accordance

with procedures established by the [] from time to time, provided there shall be no more than one Qualified Person nominated from each Franchisee or Affiliated Group. If more than one Qualified Person from any Franchisee or Affiliated Group is nominated, [the Franchisor] [] shall notify the Franchisee or Affiliated Group in question to identify the one (1) nominee selected by the Franchisee or Affiliated Group. If the Franchisee or Affiliated Group fails to do so, none of the nominees will be listed on the ballot.

Section 4. Nomination and Election Procedures. The nomination and election procedures shall be established by the [] from time to time. However, (a) there shall be no cumulative voting; (b) the elections shall be staggered, with an equal number of Franchisee Representatives elected each year, and held prior to the annual [] meetings; (c) any duly authorized officer of a Franchisee in Good Standing shall have the right to cast the vote(s) of such Franchisee, and [] and the [] may rely in good faith on assertions of due authorization; and (d) Franchisees that are part of an Affiliated Group may notify the [] and [] from time to time of the Person who shall be duly authorized to cast a vote for the Affiliated Group, and the [] and [] may rely in good faith on any such assertions of due authorization.

ARTICLE IV

Officers

Section 1. Positions. The officers of the [] shall be a Chairperson, a Vice Chairperson, and a Secretary, and such other officers as the [] may appoint, who shall exercise such powers and perform such duties as shall be determined from time to time by the []. Any number of offices may be held by the same person; provided, however, that in no event shall the Chairperson and the Secretary be the same person. The Chairperson, the Vice Chairperson and the Secretary shall be members of the [].

Section 2. Election and Term of Office. Each officer of the [] shall be elected annually by the [] at its annual meeting and shall serve for one year, and thereafter until his/her successor shall have been chosen and qualified or until his/her death, resignation, or removal. Election or

appointment of an officer shall not itself create any contractual rights.

Section 3. Resignation and Removal. Whenever in the judgment of the [] the best interest of [] will be served thereby, any officer may be removed from office by the affirmative vote of a majority of the []. Any officer may resign at any time by delivering a written resignation to the [], the Chairperson or the Secretary.

Section 4. Chairperson. The Chairperson of the [] shall preside at all meetings of the [] and shall perform such other duties and have such other powers as may be vested in the Chairperson by the []. In the absence of the Chairperson, the Vice-Chairperson of the [] shall preside at meetings.

Section 5. Vice-Chairperson. In the absence of the Chairperson or in the event of the Chairperson's refusal or inability to act, the Vice-Chairperson shall preside at meetings of the [] and shall perform such other duties and shall have such other powers as may be vested in the Vice-Chairperson by the [].

Section 6. Secretary. The Secretary shall attend all meetings of the [], and shall record all the proceedings of the meetings of the [] in a book to be kept for that purpose. The Secretary shall give, or cause to be given, notice of all special meetings of the [], and shall perform such other duties as may be prescribed by the [].

ARTICLE VI

Miscellaneous

Section 1. Principal Office. The principal office of the [] shall be located at the principal offices of [], currently [].

Section 2. Amendments of Bylaws. These Bylaws may be amended, repealed, or altered, in whole or in part, and new Bylaws may be adopted, by a majority of the votes cast at any meeting of the [], duly called and at which a quorum is present. Any such action shall be subject to the prior written approval of [].

Section 3. Dissolution of [_____]. The [_____] may be dissolved at any time by [_____] by issuing notice thereof to all members of the [_____].

Section 4. Initial Members / Election. The initial [_____] Representatives of the [_____] shall be _____, _____, _____, and _____, and they shall constitute the [_____] until the first election of Franchisee Representative shall be held.

* * * * *

The foregoing Bylaws were adopted by the [_____] on _____, 200____.

Secretary

EXHIBIT A

Definitions

Affiliated Group - each Franchisee that, directly or indirectly, controls, is controlled by, or is under common control with, another Franchisee. For purposes hereof, the term “control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the referenced Person, or the power to veto major policy decisions of the referenced Person, whether through the ownership of voting securities, by agreement or otherwise. [[]] [[]] shall be entitled to determine the existence and composition of any Affiliated Groups and shall notify each Franchisee whether it is part of an Affiliated Group. Any such determination shall be final and binding.

Franchisee In Good Standing - a Franchisee who in []’s reasonable judgment is in substantial compliance with all of its agreements (including Franchise Agreements and Area Development Agreements) with [] or any of its Affiliates. For purposes hereof, a Franchisee shall not be deemed in substantial compliance if [the Franchisee is not current in all payments to be made to []]. []’s determination of whether a Franchisee is a Franchisee in Good Standing shall be final and binding.

Franchisee - a Person who owns and operates one or more [] under a valid franchise agreement with [] (or who has the right to develop [] under a valid area development agreement with []).

Franchisee Representatives – see Article I, Section 1.

Operating Partner – as defined in the applicable Franchise Agreement.

[] – see Article I, Section 1.

[] Representatives – see Article I, Section 1.

[] – see Article I, Section 1.

Principal Owner – a natural person who is: (a) the Franchisee, if the Franchise Agreement is signed by a natural

person in his individual capacity; (b) a general partner (or a 25% or more stockholder of the managing partner, if the general partner is a corporation) if the Franchise Agreement is signed by a general or limited partnership; (c) a managing member (or a 25% or more stockholder of the managing member, if the managing member is a corporation) if the Franchise Agreement is signed by a limited liability company; or (d) a 25% or more stockholder, if the Franchise Agreement is signed by a corporation.

Qualified Individual - a natural person who is an Operating Partner or Principal Owner of a Franchisee In Good Standing and who meets all of the following eligibility requirements:

- (i) only one (1) natural person from each Franchisee (or Affiliated Group) is eligible to be nominated for membership on, or serve as a member of, the [];
- (ii) the Franchisee (or Affiliated Group) with whom the person is associated must own and operate at least one (1) Restaurant at the time of his or her nomination and election and throughout his or her term as a Member of the []; and
- (iii) the Franchisee (or Affiliated Group) with whom the person is associated must not be subject to any state or federal insolvency, reorganization, liquidation or bankruptcy proceedings at the time of his or her nomination and throughout his or her term as a Member of the [].