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Franchising Fact Sheet - Austria (2013, January)

1. How is franchising defined under national law?	The franchise agreement is not regulated by Austrian law. Regarding the prevailing opinion of legal theorists it is seen as a mixed contract which is composed of elements of the inventory and license agreement. According to the case law a continuing obligation is justified by the franchise agreement. The franchisor entitles the franchisee in return for a fee, to sell certain goods or services using name, brand, facilities etc., as well as commercial and technical experience of the franchisor's.
2. Are there any pre-contract disclosure requirements?	The obligations of the future franchise partner in contract negotiations arise from general pre-contractual duty of utmost good faith (bond of trust).
3. Does the franchisor have any liability for claims against the franchisee?	In the external relationship (to the customer), in general no liability for claims that are made against the franchisee meets the franchisor. The franchisor can be severally liable in relation to the customer based on the rules of product liability.
4. When can the franchisor terminate the franchise agreement?	The contract ends by lapse of time, by dissolution in case of breach of the contractual obligations and by proper notice of termination according to the contract.
5. Are any particular formalities required for a franchise agreement to be legally valid and enforceable under national law?	No. The written form of the contract is recommended.
6. Does a foreign franchisor have to establish a subsidiary or branch in the country?	Not necessarily.
7. Are there any other relevant requirements/provisions?	In case of a franchise agreement with a foreign franchisor the franchise agreement should contain a regulation concerning the applicable law, a jurisdiction clause or an arbitration clause.

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