

## FRANCHISING IN POLAND AND THE CZECH REPUBLIC – THE COMPARISON OF PACE AND DIRECTIONS OF DEVELOPMENT

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**Abstract:** The subject of this article is the comparative analysis of the Polish and Czech franchise markets. There were compared, inter alia the origin and adaptation of franchising in both countries and their related duration of the presence of a franchise agreement in business transactions. Comparative criteria included inter alia factors determining the franchising development such as the provisions of law governing the conclusion of franchise agreements and the operation of institutions promoting the franchising idea. Furthermore, the size of both markets was compared by measuring the number of parties to franchise agreements (number of brands and their outlets) and the structure of franchise brands (according to the criterion of the brand origin and its sectors and industries).

**Keywords:** franchising expansion, franchise market, franchise brands, franchise outlets.

### 1 Introduction

This year, franchising as a business model celebrates in Europe its 100th anniversary – in Europe franchising occurred for the first time in France in 1911. A franchising precursor is considered to be a Czech footwear manufacturer – Bata [Jacyszyn, 1993, p. 99]. Over the last one hundred years the European economy has been provided with 11.7 thousand franchise brands [Franchise Statistics for 20 countries..., 2010], thanks to which Europe has become<sup>1</sup> “the second<sup>2</sup> largest franchise continent in the world.” [Franchise Statistics for the Rest..., 2010]. Although the largest European franchise markets are far behind the global franchising leaders like China, Korea, USA and India, but the dynamics of their development is so great that scientific literature and business press draw more and more attention to them.

The aim of this article is to make a comparative analysis of franchise development models in two selected neighbouring countries: Poland and the Czech Republic – countries, in which first franchise brands were launched several dozen years after their first occurrence in Europe. The analysis is made in order to identify common and different elements of both franchise markets, in particular in the field of the pace and directions of their development and their structure.

### 2 The origin and adaptation of the franchising model in Polish and Czech economies

In Poland, the franchise agreement was applied for the first time after the political breakthrough in 1989, id est almost eighty years after the conclusion of the first franchise agreement in Europe. A franchising pioneer is considered to be a French cosmetics company – Yves Rocher - which commenced developing its distribution network in Poland in 1989. In subsequent four years, franchised outlets were established in Poland by international brands such as the network of Adidas sportswear shops, network of McDonald’s fast food restaurants, network of Jean Louis David hairdressing salons and network of Kodak photo laboratories. Thanks to the success achieved by these brands, Polish entrepreneurs were more and more interested in this new business model. The fundamental reason for their interest was the occurrence of a real and previously unknown in Poland opportunity to run a company as a part of the world famous brand recognised by customers. Consequently, as early as 1990s the first domestic franchise brands were established in Poland – the leaders were the network of A. Bikle confectionery shops and the network of “Pożegnanie z Afryką” coffee shops. In Polish economy, franchising was also applied in the privatisation process of state-owned companies, but

according to K. Bagan-Karluta [Bagan-Karluta, 2001, p. 10], the possibility to transform privatised companies into franchise brands was not fully used in Poland.

Franchising occurred in the post-Communist Czechoslovakia in the early 1990s, id est at the similar time as in Poland, but throughout more than ten years it was recognised as a foreign and innovative form of business activity. Franchising pioneers were foreign brands such as McDonald’s, Yves Rocher and OBI. The popularization and use of franchising were primarily hindered by the Czech entrepreneurs’ insufficient knowledge about its nature and resulted distrust of this new business model. Simultaneously, there were not enough supply and demand for any specialist franchising workshops, literature and consulting services. Factors that affected the slow development of franchising in the Czech Republic were also financial problems, underdevelopment of entrepreneurial culture, flawed laws, legal conscience, lack of know-how about and experience in this form of economic cooperation. Several years later the Czech entrepreneurs began to see profits resulting from this franchise business model. The Czech accession to the European Union also affected the franchising development. Since 2004 the number of parties to franchise agreements has been intensively growing. The favourable factor is on the one hand the growth of the Czech entrepreneurs’ awareness of and knowledge about franchising [Krajca, 2006, p. 21] and on the other hand, better conditions and possibilities to finance franchise ventures – a few banks have already offered products designed for entities operating under franchise agreements (for example, Komerční Banka and Raiffeisenbank) [Jonas, 2010].

To sum up, franchising in the Czech Republic is not so popular as in Poland, but its significance is growing year by year and arouses more and more interest, particularly among small and medium companies.

### 3 Legal conditions of the franchising development in Poland and the Czech Republic

In Poland the franchise agreement – due to the lack of its parameters in the legal system – is qualified as an innominate agreement. This agreement can be concluded by entities which wish to cooperate each other under the freedom of contract principle, as defined in Art. 353(1) of the Civil Code. According to this principle “any parties concluding the agreement may establish their legal relationship at their own discretion, but the content or aim of such agreement may not violate the nature of this relationship, acts or principles of community life.” Therefore, the franchise agreement is concluded under its parties’ right to freely decide on making or failing to make the agreement, to implement a specific content in the agreement and to freely select its business partner. Franchising theoreticians and practitioners are not unanimous in their view of regulating the franchise agreement in a form of the act. However, in order to keep the balance and safety of entities operating in the franchise system, the indirect solution which makes it necessary to disclose pre-contractual information and to register the agreement, seems to be the optimal solution. The adoption of such regulations would ensure the practical performance of the freedom of contract principle and at the same it would protect the franchisees that join the network.

In the Czech Republic, the issue of regulating the franchise agreement is similar to the Polish one since Czech law does not contain any specific provisions pertaining to franchising. This fact does not impede franchising from developing in the Czech economy, but entrepreneurs which begin to cooperate each other under the franchise agreement must thoroughly analyse the agreements before their signing. Besides the franchise agreement, the source of information for the franchisee is the operational manual provided by the franchisor which includes know-how and specifies regulations concerning its application.

<sup>1</sup> In respect of the number of parties to franchise agreements.

<sup>2</sup> Asia with 12.6 thousand franchise brands is ranked first.

Furthermore, some aspects of the franchising business model are governed by the European Code of Ethics for Franchising. This Code is not legally binding (neither in Poland, nor in the Czech Republic), but its provisions are reflected in practice, among other things, due to the fact that the compliance with this Code's principles is the condition for membership in the Czech Franchise Association and the Polish Franchise Organization (these two institutions are discussed in details in the subsequent sub-chapter). Unlike in other countries in which the laws do not expressly regulate franchising either, the relevant court decisions are also missing in the Czech Republic. Therefore, the Czech courts did not decide e.g. on that issue that is very important for franchising, being whether Czech law allows the comparison of the position of the franchisee with that of a business representative within the meaning of Section 652 et seq. of the Czech Commercial Code, and whether the franchisee may claim compensation following the termination of the franchising agreement. With the ongoing development of franchising business on the Czech market, the courts can be expected to get more often involved in practical issues in this area. Given the missing express legal regulation, the basic legal standard for franchising is the Commercial Code setting forth the legal relations between businessmen. The Commercial Code governs both the franchising agreement and other issues regarding the relationship between a businessman and a recipient of the franchise, or among the franchisees. Since franchising agreements regularly contain provisions that may distort economic competition, such as the exclusivity clause, ban on competitive conduct, obligation to off-take goods only from the franchisor, ban on active sales beyond a specified territory, also the standards of the antimonopoly law are of significant importance for franchising [Kusak, 2003].

In conclusion, we can state that, despite the absence of regulation of franchising in the Polish and Czech laws, the current legal environment is favourable for this legal form of business.

#### 4 Institutional conditions of the franchising development in Poland and the Czech Republic

Another issue which is as significant as legal conditions and enhances the franchising expansion is the existence of an institution which promotes the franchise business model in a given country. In Poland, this function is played by the Polish Franchise Organization (PFO), which has associated franchising and agency brands operating on the Polish market since 2000. The aim of the PFO is to establish favourable conditions for the franchising development, particularly in legal and financial issues. The organization awards certificates to its members which observe the requirements of the European Code of Ethics for Franchising, conducts workshops for parties to franchise agreements and provides patronage for franchise exhibitions. Moreover, the PFO provides information on the Polish franchise market and is a source of contacts with foreign franchisors which are interested in entering the Polish market. According to the PFO's website, this organization comprises 34 franchisors, which is only 5.2% of all the franchisors of the franchise brands operating in Poland [<http://franchise.org.pl/> (23.11.2011)]. Undoubtedly, the PFO's prestige has risen due to events of the last two years – in June 2010 the PFO became the member of the European Franchise Federation (EFF) and in April 2011 the PFO joined the World Franchise Council (WFC) [<http://franchise.org.pl/pof-admitted-to-the-world-franchise-council> (23.11.2011)].

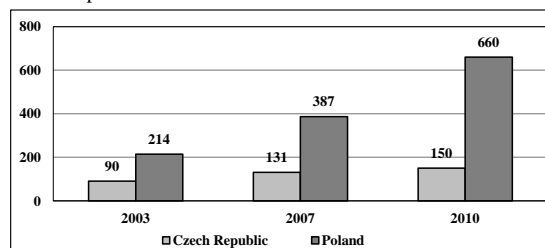
In the Czech Republic the similar role as the PFO is played by the Czech Franchise Association (CFA), which is a non-profit, professional organization associating at the national level franchising providers – franchisors and specialists dealing with franchising issues, lawyers and advisors. CFA was established in 1993 and its mission is to inform non-professional and professional public about the fundamentals and significance of franchising and about successful representatives of this form of business. CFA cooperates with professional and specialised unions in the Czech Republic and other franchise unions in

Europe. CAF has 32 members (just two less than PFO) at present, which is 21.3% of all the franchisors of the franchise brands operating in the Czech Republic. Members of the Czech Franchise Association are first of all big, well-known, international networks. CFA is also a member of EFF and WFC [<http://www.czech-franchise.cz/> (23.11.2011)].

#### 5 The number of franchise brands and outlets in Poland and the Czech Republic

The aforementioned conditions are reflected in the number of franchise brands and its outlets operating on the analysed markets. In 2010, Poland had 660 franchise brands (graph 1) and 38.3 thousand franchised outlets. At the same time, the Czech Republic had 150 franchise brands and 3.5 thousand outlets operating under the franchise agreement. The comparison of the Polish and the Czech franchise markets in absolute figures works to the advantage of Poland because the number of the franchise brands in the Czech Republic equals to only 22.7% of the number of the brands operating in Poland. As for the number of outlets, this disproportion is much greater – the number of sales outlets used by the franchise systems in the Czech Republic equals to 9.1% of the number of the outlets operating on the Polish franchise market.

Graph 1. The number of franchise brands in Poland and the Czech Republic



Source: own source under: *Raport o franczyzie w Polsce*, Warsaw: ProfitSystem, 2011; *Cesi se uz franchisingu nebaji – REPORT*, <http://franchisinginfo.cz/clanek/727/cesi-se-uz-franchisingu-neboji/> (09.03.2011).

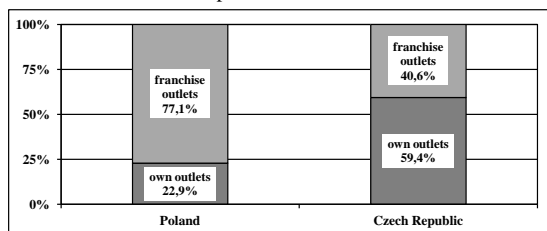
Besides the differences in absolute figures, the analysed franchise markets are characterized by a different pace of development. Over the last seven years the number of the franchise brands in Poland has grown annually by 64 new brands on average (growth by 30% annually). At the same time, the Czech franchise market has grown annually by 9 new brands on average (growth by 10% annually). Therefore, as for Poland the distinctly greater dynamics of the franchise brands growth is observed. However, it is noteworthy that the Czech Republic sees the constant growth of companies operating under the franchise licence in the recent years, which proves that the Czech franchise market is stabilized and the franchising model of the economic cooperation, which has not been appreciated for years, is maturing.

Moreover, the relation of the number of outlets to the number of brands shows the difference in the size of the average franchise brand – in Poland, the average franchise brand comprises 58 franchised outlets and in the Czech Republic, the average brand comprises 23 franchised outlets. These differences primarily result from the different pace of development and the maturity degree of the analysed franchise markets.

Among all the franchise brands operating on the Polish market, the brands having the largest number of franchised outlets are as follows: ABC convenience stores, Orlen petrol stations, Lewiatan convenience stores, Sieć 34 convenience stores and Avans white and brown goods shops [Raport o franczyzie i systemach agencyjnych ..., 2006]. In the Czech Republic the group of the largest franchise brands includes Teta pharmacies, Hruska retail shops, Yamaha music schools, Brnenka retail shops and Fornetti mini-bakeries [Czesi preferuja usługi, <http://franchising.pl/artukul/6061/czesni-preferuja-uslugi/> (05.05.2011)].

By analysing the number of outlets operating as a part of the franchise brands, it is worth drawing attention to their structures. Not all the sales outlets, through which the franchise brands distribute their products or services, have the franchise character in its exact meaning. Since the economic practice shows that some of these outlets are not associated with the franchisors under franchise agreements, but they are owned by them. The outlets owned by franchisors usually play the pilot role or are established in unprofitable fields at the beginning of their operation. The analysis of the structure of the outlets applied by the franchise brands in Poland and the Czech Republic shows the difference between both markets in this regard. In Poland, according to tendencies of the developed franchise markets, a distinct percentage advantage is achieved by outlets associated with the franchisor under the franchise agreement (77%), whereas in the Czech Republic 6 out of 10 outlets are owned by the franchise brands (graph 2). This structure proves the lower maturity degree of the Czech franchise market in comparison with the Polish one.

Graph 2. The structure of outlets used by franchise systems in Poland and the Czech Republic in 2010

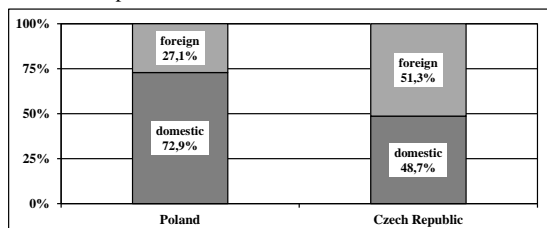


Source: own source under: *Raport o franczyzie w Polsce*, Warsaw: ProfitSystem, 2011; *Cesi se uz franchisingu neboji - REPORT*, <http://franchisinginfo.cz/clanek/727/cesi-se-uz-franchisingu-neboji/> (09.03.2011).

## 6 The franchise market structure in Poland and the Czech Republic

The Czech does not show any special preferences in respect of the origin of the franchise brands. In the late 2010, the Czech Republic had 73 domestic and 77 foreign franchise systems, therefore the percentage difference between these numbers is minimal (graph 3). The different structure in this respect is shown in Poland, where 481 brands are domestic and 179 are foreign. However, it is noteworthy that in recent years Poland has seen the greater quantitative superiority of domestic brands over the foreign ones, which is one of symptoms of the franchise market maturing in this country.

Graph 3. The origin structure of franchise systems in Poland and the Czech Republic in 2010

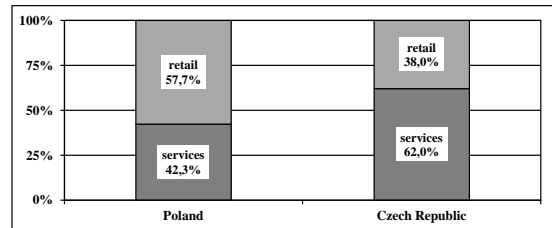


Source: own source under: *Raport o franczyzie w Polsce*, Warsaw: ProfitSystem, 2011; *Cesi se uz franchisingu neboji - REPORT*, <http://franchisinginfo.cz/clanek/727/cesi-se-uz-franchisingu-neboji/> (09.03.2011).

Furthermore, the analysed countries differ from each other in respect of a share of the individual industries in the franchise market since the Czech more willingly than the Poles establishes service brands. Last year, such brands equalled to 62% of all the brands (93) – remaining 38% constituted commercial brands (57) (graph 4). The structure of the commercial brand is much easier and faster that establishing the service brand. Despite this fact the Czech prefers services. Poland, in which the franchise market is much more developed, is dominated by shops (57%), and service outlets are less popular (43%). The experts of the Czech franchising consulting company (among other things, M. Halfar, a director with PROFIT system franchise services)

expect that the development of the Czech franchise market will result in the growth of the share of the commercial entities.

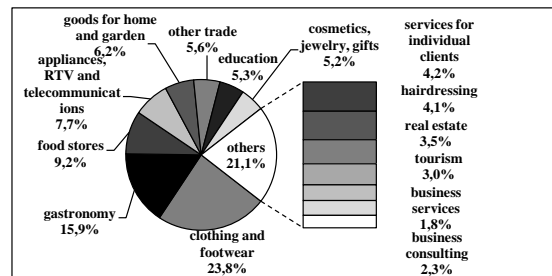
Graph 4. The sector structure of franchise systems in Poland and the Czech Republic in 2010



Source: own source under: *Raport o franczyzie w Polsce*, Warsaw: ProfitSystem, 2011; *Cesi se uz franchisingu neboji - REPORT*, <http://franchisinginfo.cz/clanek/727/cesi-se-uz-franchisingu-neboji/> (09.03.2011).

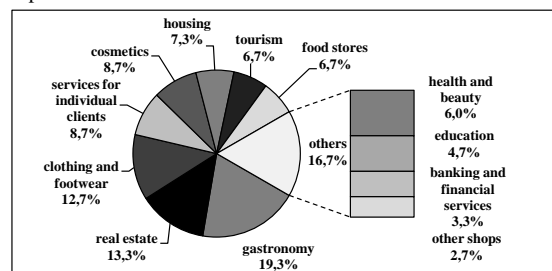
The detailed sector structure of the franchise brands is its industrial approach, which is shown in graphs 5 and 6 for the analysed markets. Thanks to this approach, it can be seen that franchising in both countries is present in at least more than ten industries. The data analysis shown in graphs proves that the franchise brands operating in Poland are dominated by clothing brands, which equal to 24% of all the brands and food catering brands, which equal to 16%. The aforementioned industries have also a considerable share in the Czech franchise brand structure – 19% and 13%, respectively. In Poland the third and fourth places are occupied by commercial brands such as convenience shops and brown and white goods and telecommunication shops with shares of 9% and 8%, respectively. In the Czech Republic, a considerable role (a 13% share) is played by the real estate industry, which in Poland has only a 3.5% share in the franchise brand structure. Another industry which is considerably significant to the franchise market development in the Czech Republic is services rendered to individual customers (9%). This industry in Poland has only 4% of all the franchise brands. This difference is also seen in the tourism industry, which in the Czech Republic is twice as large as in Poland (7% and 3%, respectively).

Graph 5. The industry structure of franchise brands in Poland in 2010



Source: own source under: *Raport o franczyzie w Polsce*, Warsaw: ProfitSystem, 2011.

Graph 6. The industry structure of franchise brands in the Czech Republic in 2010



Source: own source under: *Cesi se uz franchisingu neboji - REPORT*, <http://franchisinginfo.cz/clanek/727/cesi-se-uz-franchisingu-neboji/> (09.03.2011).

## 7 Summary

The conducted analysis shows that the neighbourhood of the analysed countries and the similar moment of conducting the first franchise agreement did not determine too many common features of the analysed franchise markets. The great difference is observed in both the size of the franchise markets measured by the number of brands and outlets and their structure. The differences relate to the brand origin structure, sector structure and the ownership structure of the outlets possessed by the franchise brands. The only similarity is in the industry structure of the franchise brands – in both countries a considerable share is captured by clothing and footwear outlets and food catering outlets.

To sum up, it is noteworthy that the franchise market in the Czech Republic still differs from the Polish one. However, on the basis of the observed pace of changes on the Czech market it can be concluded that this disproportion will slowly diminish. Since the experts amicably predict that the franchise popularity in the Czech Republic will grow. For example in 2011, 70 companies have anticipated to develop their businesses through franchising in the Czech Republic. This would entail that in subsequent years the growth pace of the number of companies operating under the franchise licences in the Czech Republic will be at a similar level. According to the experts' calculations in 2012 over 200 brands will operate in the Czech Republic in comparison with even 900 brands that may operate in Poland [Cesi se uz franchisingu neboji - REPORT, 2011].

In order to evaluate the franchising development in both countries, the ratio of the average number of franchise brands and outlets per one million people can be applied. This ratio is not only applied to compare the countries in relative values, but also it is a parameter applied to evaluate in a simplified way the franchising saturation ratio of the analysed markets. The reference of the number of the franchise systems to the number of people shows a considerable gap in this respect in the Czech Republic – this ratio for Poland equals to 17 brands and 1002 franchised outlets per one million people and for the Czech Republic this ratio equals to 14 brands and 331 outlets per one million people [2011 World Population Data Sheet, 2011].

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### Primary Paper Section: A

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