



# **Franchising in Inadequately Protected Markets**

## **Inhibiting Factors in Entrepreneurial Market Entry**

by

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## Abstract

As a result of the growing trend in globalisation, Western fast food entrepreneurs are seeking opportunities to expand their operations in the Kingdom of Saudi Arabia. Saudi Arabia, as a developing country, has limited protection of intellectual property, and has limited franchise regulations. Yet, Saudi Arabia is attracting huge foreign direct investments, and fast food franchising is an exponentially growing sector.

This study explores the prospects of expanding or starting a fast food business in Saudi Arabia after joining the World Trade Organization. It also explores the barriers, risks and disincentives related to operational quality as well as intellectual property protection. Finally, it explores possible entrepreneurial modes of entry in a similar emerging market.

The study concludes that the fast food market in Saudi Arabia is very lucrative as compared to other markets in the region. Several legal and operational barriers are identified. However, neither is reported as insurmountable or negatively affecting entrepreneurial fast food expansion. The preferred mode of entry varies with different entrepreneurs. A well-established entrepreneurial fast food business, with critical firm-specific-advantages may well adopt a mode of wholly-owned subsidiaries locally, and a joint venture mode overseas.

## Table of Contents

1	Introduction and Context.....	1
1.1	Overview.....	1
1.2	Objectives.....	1
1.3	Aims of the Research.....	4
1.4	Outline .....	4
2	Prospects, Barriers and Modes of Entry in Literature .....	5
2.1	Introduction.....	5
2.2	Dimensions of Research.....	5
2.3	Core Concepts .....	6
2.3.1	Franchising.....	7
2.3.2	Franchisor.....	8
2.3.3	Franchisee.....	8
2.3.4	Area Development .....	9
2.3.5	Master Franchisee .....	10
2.3.6	Strategic Alliance.....	10
2.3.7	Joint Venture .....	11
2.3.8	Licensing .....	11
2.3.9	Internalisation vs. Externalisation .....	11
2.3.10	Fast Food .....	12
2.3.11	Value Chain.....	12
2.3.12	Transnational Corporation .....	12
2.3.13	Intellectual Property (IP).....	13
2.3.14	The Entrepreneur .....	13
2.3.15	Emerging Market.....	14
2.4	Prospects of KSA Market Growth .....	15
2.4.1	WTO Membership .....	16
2.4.2	Wealth .....	17
2.4.3	Strategic Location.....	17
2.4.4	Culture .....	18
2.4.5	Population.....	18
2.4.6	Ownership Requirement.....	19

**Table of Contents**

---

2.4.7	Profit Remittance.....	20
2.4.8	Taxes.....	20
2.4.9	Fast Food Franchising.....	21
2.4.10	Consumer Food Service.....	21
2.5	Barriers to Entry.....	22
2.5.1	Service-Specific Barriers.....	23
2.5.2	Cross-Cultural Barrier.....	24
2.5.3	Political Risks.....	25
2.5.4	Quality Barriers.....	26
2.5.5	Intellectual Property Barriers.....	31
2.6	Modes of Entry.....	35
2.6.1	Overview.....	35
2.6.2	Franchising.....	36
2.6.3	Licensing.....	37
2.6.4	Wholly-Owned Subsidiaries.....	37
2.6.5	Joint Venturing.....	38
2.7	Theoretical Foundation of Entry Modes.....	40
2.7.1	Overview.....	40
2.7.2	Conceptual Rationale behind Entry Modes.....	40
2.7.3	Theoretical Perspectives.....	44
2.7.4	Optimal Mode of Entry Matrix.....	53
2.7.5	Synthesis of Rationale and Theories.....	54
2.7.6	Approaches to Market Entry.....	55
2.8	Summary.....	56
3	Methodology.....	58
3.1	Introduction.....	58
3.2	The Research Approach.....	58
3.3	Data Collection.....	59
3.3.1	The Challenge.....	59
3.3.2	The Process.....	60
3.4	Research Questions.....	65
3.5	Propositions.....	66
3.6	Summary.....	66

**Table of Contents**

---

4	Results.....	68
4.1	Introduction.....	68
4.2	Demographics of the Participants.....	68
4.3	Research Challenges.....	69
4.4	Central Themes.....	70
4.4.1	Perceptions on the Market Prospects.....	70
4.4.2	Quality Barriers in Market Entry.....	71
4.4.3	Applied Measures for Operation Quality Control.....	74
4.4.4	Intellectual Property Barriers in Market Entry.....	75
4.4.5	Applied Measures in Intellectual Property Protection.....	76
4.4.6	Preferred Modes of Entry.....	77
4.5	Summary.....	80
5	Discussion and Implications.....	82
5.1	Introduction.....	82
5.2	Prospects of Fast Food Market.....	82
5.3	Barriers in Balance.....	83
5.3.1	Commitment to Quality.....	84
5.3.2	Legal Barriers.....	88
5.4	Market Entry Strategies.....	89
5.4.1	Wholly-Owned Subsidiaries.....	89
5.4.2	Franchising.....	90
5.4.3	Joint Ventures.....	92
5.5	Further Implications.....	93
5.6	Direction for Future Research.....	93
5.7	Summary.....	95
6	Conclusions.....	96
7	Recommendations.....	98
8	Limitations.....	100
9	References.....	101

**Table of Contents**

---

10	Appendices.....	113
10.1	Appendix-1: Information Sheet to Respondents.....	113
10.2	Appendix 2: Questions of Research.....	114
10.2.1	General.....	114
10.2.2	Business Prospects in Saudi Arabia.....	114
10.2.3	Quality Barriers to Market Entry.....	115
10.2.4	IP Barriers to Market Entry.....	115
10.2.5	Mode of Market Entry.....	116
10.2.6	IP Protection Measures.....	116
10.2.7	Quality Control Measures.....	117
10.3	Appendix 3: IPR Legislative Profile in KSA.....	118
10.3.1	National Legislation of KSA (WIPO, 2006).....	118
10.3.2	Memberships of International Bodies.....	118
10.4	Appendix 4: TRIPS Check List.....	119
10.5	Appendix 5: Western Global Franchising Companies in KSA.....	123
10.6	Appendix 6: Leading Consumer Foodservice Brands in KSA.....	124

## Table of Figures

Figure 1: Entrepreneur’s Concerns for Expansion in KSA.....	2
Figure 2: Dimensions of literature review. ....	6
Figure 3: Who is the Entrepreneur.....	14
Figure 4: Barriers / risks faced by franchise entrepreneurs .....	23
Figure 5 Antecedents of Commitment.....	29
Figure 6: A Contract-Based Model of Intellectual Property Protection .....	34
Figure 7 Key Characteristics of Modal Alternatives.....	42
Figure 8 Modes of entry in relation to resource commitment, risk and control.....	43
Figure 9: Realm of Market Entry Theories.....	45
Figure 10: The Timmons Model of the Entrepreneurial Process .....	46
Figure 11: Psychic Distance.....	52
Figure 12 Theoretical perspectives vs. rationale for mode of entry .....	54
Figure 13 Overview of the data collection process.....	60
Figure 14 Relationship network of a fast food franchise entrepreneur .....	87
Figure 15 Formula for optimal mode of market entry .....	94

## List of Tables

Table 1 Barriers to Service Expansion Abroad ..... 24

Table 2 Political Risk Factors..... 25

Table 3 Optimal emerging market entry matrix ..... 53

Table 4 Effects of different barriers in different modes of entry ..... 79

Table 5 National IPR legislations in KSA..... 118

Table 6 KSA Membership in International bodies/treaties ..... 118

Table 7 Leading Consumer Foodservice Brands by Number of Units 2004 ..... 124

# 1 Introduction and Context

## 1.1 Overview

Globalisation has become the trend of business in the 21st century. Export of products and services has become a success formula in the economic growth sweepstakes of the globalized economy. Growth-oriented companies need to be global exporters or risk going out of business. In the fast food business globalisation can be achieved through self-expansion by company-owned stores, via strategic alliances, or a combination thereof. For entrepreneurs, franchising is one of the primary means for global expansion. Movement of goods, funds, and ideas has become easier with more countries joining the World Trade Organization (WTO). This applies to nation states as well as regional economies.

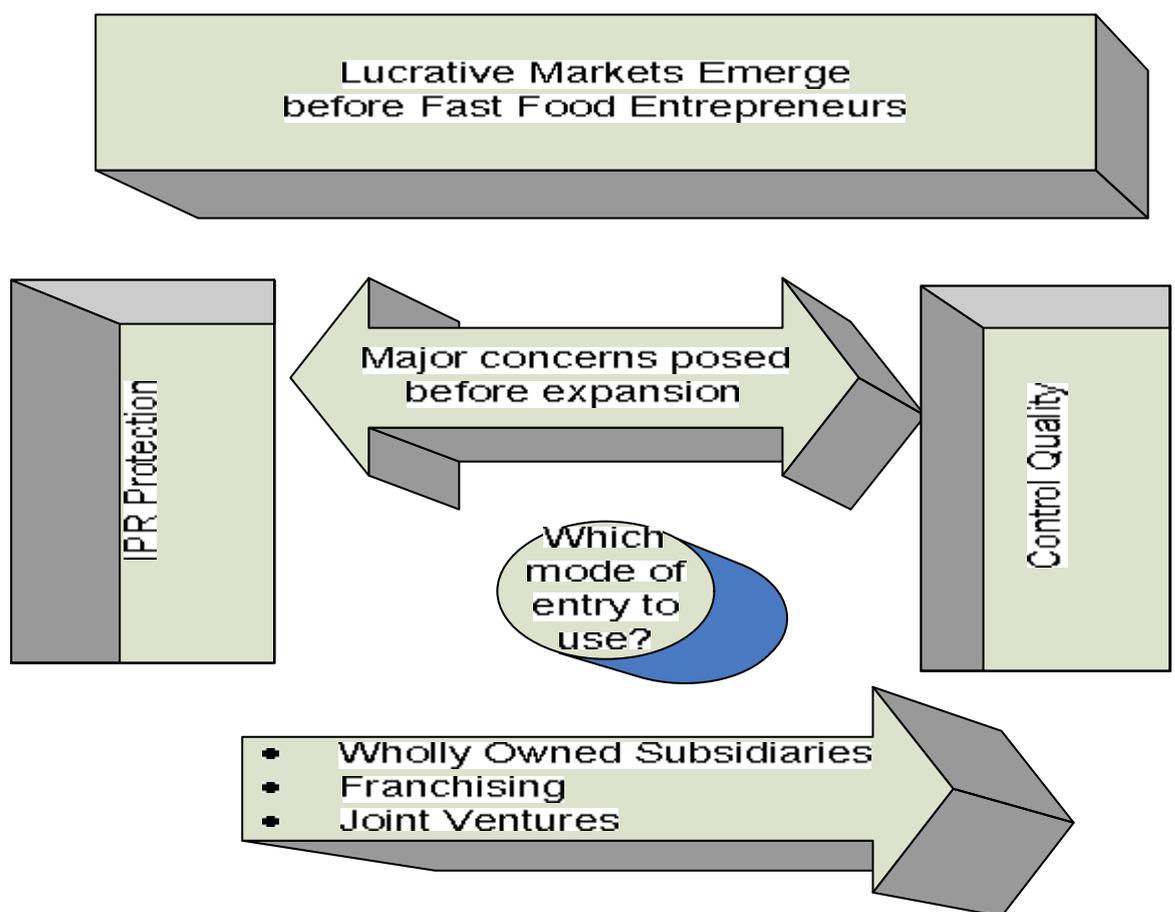
Within this perspective, globally-oriented franchises, established franchisors and franchise entrepreneurs are constantly evaluating safe and effective ways to expand their businesses into new regions. "How can I best enter that lucrative market?" is a question that we often hear amongst globally-oriented franchisors. The answer is more straightforward when entering developed economies with established trade and/or franchising systems in place. But the answer is much more problematic when it comes to market entry into developing economies which have less established trade systems and/or intellectual property rights protection.

## 1.2 Objectives

In this research, the focus is on the Kingdom of Saudi Arabia (KSA). Entrepreneurs find an economically-lucrative market in KSA. However, there are major concerns in entering the market. These concerns include areas like the protection of the

entrepreneur's intellectual property and maintaining the required control over the quality of operation. With consideration to such concerns, franchise entrepreneurs are challenged to think about the optimal mode of entry into that market. Is it by franchising, joint ventures, or simply by wholly owned subsidiaries? Figure 1 below illustrates an overall image of such a concern:

Figure 1: Entrepreneur's Concerns for Expansion in KSA



Source: Compiled by the author.

Hence, the research question formulated around the above concerns becomes:

***To what extent can franchise entrepreneurs implement effective expansion strategies in a poorly protected market such as KSA?***

KSA is an oil-rich country where there is limited franchise regulation and limited enforcement of intellectual property rights (IPR). What makes the research more significant at this time is the fact that KSA has already signed free trade agreements with USA and formally joined the WTO in December 2005.

This research investigates the possibility of expansion in a country that used to be a closed-system, but now tends to encourage foreign direct investments (FDI) and open its markets gradually to the world. KSA has a rather conservative and orthodox culture, as opposed to liberal Western culture. This creates a major challenge to globally-oriented franchise entrepreneurs considering spreading Western corporate culture into such areas. The challenge lies not only in the legal and cultural context but extends further to financial aspects, where there is a totally different taxation system and other regulatory and compliance systems. The challenge also extends to sourcing, where access to quality material and human capital required for operation becomes an issue.

The purpose of this research is to explore the problem that franchise entrepreneurs face in identifying the mode of entry for expanding franchises in new rich international markets such as Saudi Arabia where there is limited franchise regulation and limited enforcement of legal intellectual property rights (IPR).

This exploration is of particular importance from a national and transnational economic point of view. In application, this research contributes to facilitating the expansion of franchise companies and overseas entrepreneurs into markets such as Saudi Arabia. It illuminates possible expansion barriers and possible strategies on the mode of entry in this age of globalisation where future growth requires that companies view *the world* as their market (Gitman, 2006). Further, the research would help local entrepreneurs considering franchising in such markets to make informed decisions on the mode of entry necessitated by the nature and circumstances of the market.

## 1.3 Aims of the Research

This research is proposition-driven, with no hypotheses in place. The aim of this research is to find answers to the following questions:

1. **Prospects:** What are the expansion prospects for franchise entrepreneurs in the Saudi market after joining the WTO?
2. **Barriers:** What are the quality and intellectual property barriers to entry for franchise entrepreneurs into the Saudi market, and by implication to other similar markets?
3. **Mode of Entry:** How effectively can franchise entrepreneurs use existing entry strategies for expansion in such markets?
4. **Recommended Entry:** What mode of entry might meet the expansion and IP protection requirements of franchisors in the light of the above?

Finally, the purpose of the study is to propose appropriate expansion methods for franchise entrepreneurs in getting into the Saudi market.

## 1.4 Outline

To meet the purpose of the author, the paper starts with a review of the existing literature, covering the dimensions of research, the core concepts, the prospects of the Saudi fast food market growth, barriers to market entry, modes of market entry, and theoretical foundation of entry modes. After that, the paper discusses the research methodology, data collection, research questions, population and sample, research factors, and propositions. Following the establishment of research methodology, the results of the research are stated within a framework of central themes. Finally the author discusses the results and provides conclusions on how best to implement expansion strategies in the region.

## **2 Prospects, Barriers and Modes of Entry in Literature**

### **2.1 Introduction**

This section explores the existing literature on the entrepreneurial modes of entry or expansion into different regions or territories. Both conceptual and empirical journal articles have been consulted, in addition to specialized books and online articles and databases. Secondary data databases have also been consulted to provide input mainly on the marketing in the targeted country as well as on economic indicators of that country.

This chapter first casts light on the dimensions of the research. Then, the core technical concepts that are discussed in the paper are explained. Later, the prospects of the market growth in Saudi Arabia are examined. When the prospects are established the paper examines the possible barriers to market entry in Saudi Arabia. Having looked at the prospects and the barriers, the paper explores the possible modes of entry into the market. The theoretical foundation of the mode of entry is then established as a basis for entering to, or expanding in, the Saudi fast food market.

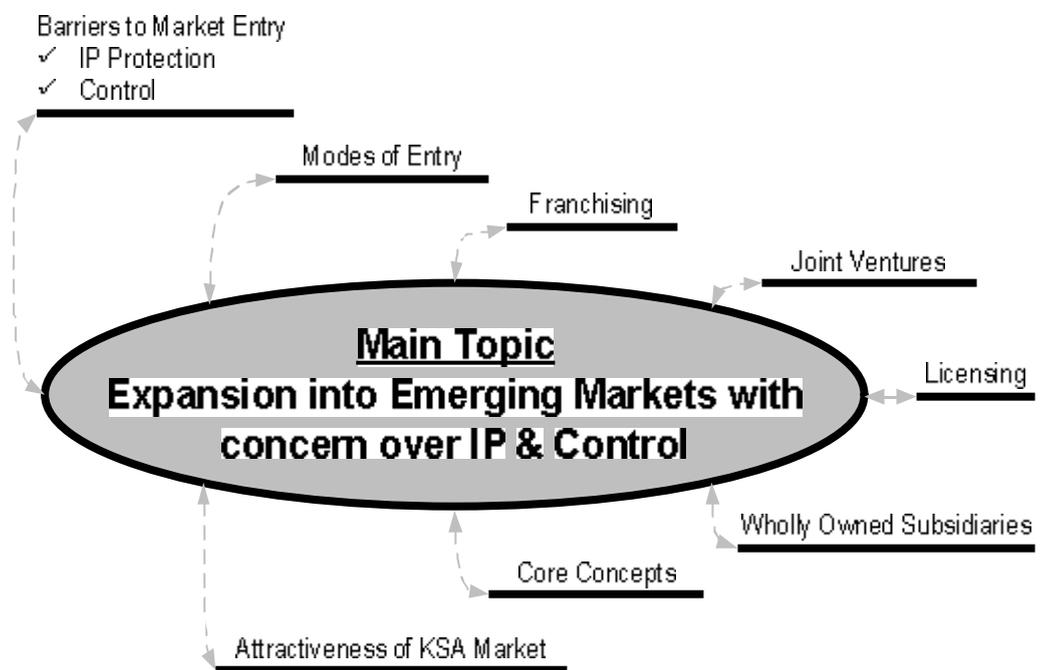
### **2.2 Dimensions of Research**

Review of the literature has revealed limited academic research on the optimal entry into poorly-protected markets such as KSA. To facilitate the research process, focus has been separately put on the topic's basic components; namely, the attractiveness of the emerging market, expansion barriers, and expansion strategies in emerging markets. This section starts with defining the core concepts discussed in the paper.

Then it explores the seminal writings on the subject. Later on, the paper explores the literature on the attractiveness of the Saudi market, barriers to market entry, and a theoretical construct on the mode of entry.

This literature review follows a pattern of thoughts and investigations as illustrated in the Figure 2 below:

**Figure 2: Dimensions of literature review.**



*Source: compiled by the author*

## 2.3 Core Concepts

In this section the core concepts that form the basis of this research are defined in the way they are used in this context.

### 2.3.1 Franchising

Franchising is a form of licensing in which the franchisor licenses the franchisee to use the intangible property of the franchisor, and obligates the franchisee to a set of rules to conduct the business. Franchising is not an industry but rather a method of marketing goods and services. The New Zealand based Franchise Association of New Zealand has defined business format franchising:

Where the creator of the business (the *franchisor*) grants a license (a *franchise*) to another (the *franchisee*) to operate from a location or within a territory under the brand name of the franchisor, using the pre-defined business format and operating system prescribed by the franchisor. The franchisee pays to the franchisor an initial fee to take up the franchise (normally for a fixed term) and makes ongoing payments to the franchisor. In return, the franchisor provides a variety of goods and/or services and ongoing guidance and advice to encourage the profitability and growth of the franchisees business. (*New Zealand's Franchisor's Guide*, 2000, p. 106)

More specifically, in fast food franchising, the franchisor licenses the franchisee to use its brand name, trademarks and processes in conducting the business. The franchisor insists that franchisees abide by the operations manual in addition to the franchise agreement between them. Usually the franchisee pays an upfront fee.

Later, the franchisee pays some percentage of revenue in the form of royalties to the franchisor. In return, the franchisor provides mainly training, coaching and marketing to franchisees.

Franchising is considered an entrepreneurial relationship between two organizations: the franchisor and the franchisee. A close examination of Timmon's model definition of entrepreneurship (Timmons & Spinelli, 2003, p. 56) reveals a close connection between the two. The focus of both franchising and entrepreneurship is recognition of

opportunities for the purpose of wealth creation. Further, as in entrepreneurship, partners understand the expectation for wealth of each other, and they work together to achieve that goal. According to the Franchise Association of New Zealand, both parties of the franchise system are entrepreneurs:

Franchisors are entrepreneurs- they explore new ways of doing business.

Franchisees are entrepreneurs- they explore the potential offered by and within a defined business system (*New Zealand's Franchisor's Guide*, 2000, p. 13).

Franchising as explained above is meant to refer to the business format franchising. In reality, two types of franchising are common in the franchise world. The other type is the Product and Trade Name franchising, commonly referred to as P&T. It is a type of sales relationship that is common in automobile dealerships (Pak, 2000).

### **2.3.2 Franchisor**

A franchisor is a person or company who decides to expand the business by giving to selected franchisees the right to do business under their trade or service marks in accordance with the franchise agreement. Major franchisors in the fast food industry include McDonald's Corporation and YUM! Brands Inc. The Franchise Association of New Zealand has defined a franchisor as "a person or company issuing or granting a franchise or license to a franchisee or licensee" (*New Zealand's Franchisor's Guide*, 2000, p. 107)

### **2.3.3 Franchisee**

A franchisee is the person or company accepting the right, granted by the franchisor to retail or provide services, using the franchisor's trade name or service marks, within the terms set in the franchise agreement. In the fast food industry, a franchisee

is the one who owns and directly operates restaurants in accordance with the franchise agreement. The Franchise Association of New Zealand has defined franchisee as "a person or company to whom the right (franchise or license) to conduct a business is granted by the franchisor or licensor" (*New Zealand's Franchisee's Guide*, 2000, p. 96).

In addition to the entrepreneurial franchise alliance mentioned earlier, franchisees are considered entrepreneurs in different respects. The continued success of franchisees leads them to the proliferation of new franchise ventures. Not only the number of multiple outlet franchises is increasing, but also the number of franchisees operating multiple outlets in various franchise systems is increasing (Timmons & Spinelli, 2003).

### **2.3.4 Area Development**

Area development is sometimes referred to as "master franchise," "master license," "regional development," or "area development". The concept is the same; it is the right granted by a franchisor to a business entity to develop a specific geographic territory for quicker expansion of the franchise network.

According to franchise expert Mendelsohn (2005), area development is a technique of multiple franchising that can be approached by an arrangement in which the franchisor gives the developer the right to open a multiple number of outlets to a predetermined schedule, and within a given geography. It also can be approached by an arrangement in which the franchisor gives the developer the right to establish, to a predetermined schedule and within a given geography, a combination of his own outlets and those of subfranchisees.

Area development is considered as an entrepreneurial orientation. Statistics show that area developers keep increasing the number of outlets under their control; and the percentage of entrepreneurial orientation goes along with that increase (Maritz & Nieman, 2006). Area developers show a great sense of entrepreneurial characteristics such as urgency and performance, as opposed to single-unit franchisees (Maritz & Nieman, 2006).

### **2.3.5 Master Franchisee**

A master franchisee is in essence a franchisee with more licensing rights and bigger geographical responsibility. Having acquired an area franchise, as well as operating in his/her own location, the master franchisee can create sub-franchisees within his/her territory. Some of the services normally provided by the original franchisor will be provided by the master franchisee and between them they will divide the franchise fee and subsequent royalties paid by the sub-franchisee. Master franchisee according to the Franchise Association of New Zealand is

Someone who is operating in a three-tiered franchise system where they report directly to the franchisor and is responsible in turn for franchisees reporting directly to him or her. The master franchisee is usually given a large territory with the possibility of appointing and servicing and generating income from those franchisees. (*New Zealand's Franchisor's Guide*, 2000, p. 107)

### **2.3.6 Strategic Alliance**

The Strategic Alliance (SA) typically represents a collaborative arrangement between firms (Johansson, 2006). In the fast food sector, SA covers relationships such as

licensing, franchising, management contracts, and joint ventures. SA is based on the sharing of vital information between the partners.

### **2.3.7 Joint Venture**

In general terms, a joint venture is an agreement between two or more businesses to mutually accomplish a business objective. According to Gitman (2006, p. 794), a joint venture is “a partnership under which the participants have contractually agreed to contribute specified amounts of money and expertise in exchange for stated proportions of ownership and profit”. Within a franchising context, a joint venture can be an agreement between the franchisor and a would-be franchisee business to conduct the franchise business in a special way or under special circumstances.

### **2.3.8 Licensing**

Licensing is when one company sells another the right to make its products, use its processes, patents, copyrights, trademarks, name, or know-how (Spencer, 1994). Franchising is just one way of licensing. The main difference may lie in the fact that in franchising there is more control on the operation enforced through the operation manual.

### **2.3.9 Internalisation vs. Externalisation**

As opposed to “externalisation” theory, the concept of internalisation refers to the company’s option to expand on its own, without alliances, in order to retain control over its firm-specific advantages (Johansson, 2006). However, externalisation indicates the company’s desire to take a licensing or alliance option as opposed to expansion on its own (Johansson, 2006).

Internalisation is achieved through wholly-owned subsidiaries (WOS). Here the company chooses to use its own resources in expansion, without including any alliance or another party. The company would possibly use FDI or 100 percent ownership. This mode of entry is usually used when the concerned company is worried about its control over quality; it provides the maximum level of control over operation compared to other modes of market entry.

### **2.3.10 Fast Food**

Fast food as used in this context refers to restaurants where food is supplied quickly after ordering with minimal service. Fast food restaurants have recently been referred to as “quick service restaurant” (QSR for short). They cover well known international brands such as McDonald’s, and KFC.

### **2.3.11 Value Chain**

The concept of the value chain stems from the notion of adding value. It indicates that a company plays just a transforming role between input and output; that is, in the way it transforms raw materials to final goods. Some of the company’s tasks are in operation while others are in support. Companies would focus on their core operations while outsourcing non-core activities in an attempt to maintain their competitive advantage (Johansson, 2006). Building the right value chain would be one of the most important concerns of an enterprise when going abroad.

### **2.3.12 Transnational Corporation**

In this context, a transnational corporation (TNC) is any company doing business in a home country as well as overseas; or any company doing business across one

country and making serious efforts in expanding beyond its current geographical limits. Sometimes it is referred to as a multinational corporation (MNC) or multinational enterprise (MNE) (Hill, 2005). Such corporations are often very large, with offices, factories or branch plants in different countries. Usually they have one centralised head office where they coordinate global management.

### 2.3.13 Intellectual Property (IP)

This term is often used to refer generically to property rights created through intellectual efforts by a creator that are generally protectable under patent, trademark, copyright, trade secret, trade dress or other law (Sherman, 2004). Intellectual property can be described as the ideas and technologies of human creativity. It covers two areas: *industrial property*, including inventions, trademarks, industrial design, and protection against unfair competition and *copyrights* including photographic and artistic works (Jain, 1996).

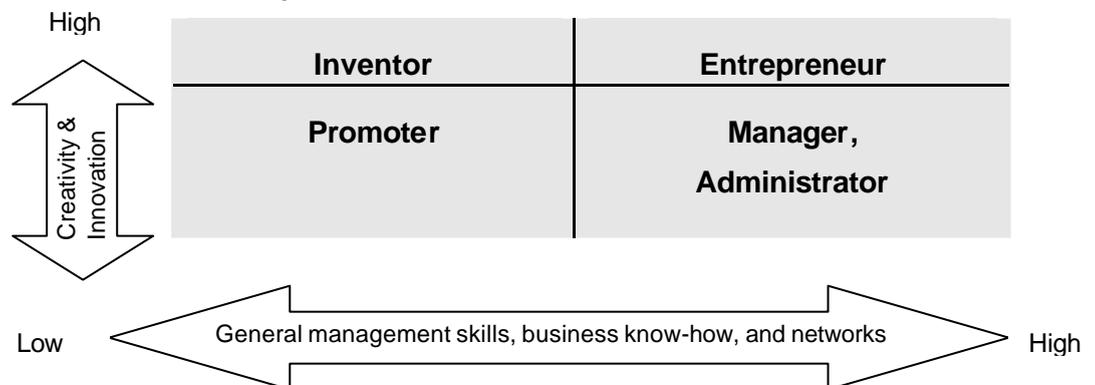
In fast food franchising in particular, reference is made to the brand name, logos, operation manual, cooking processes, secret mix, in addition to many other things that distinguish the business.

### 2.3.14 The Entrepreneur

An entrepreneur is a person who organizes, operates, and typically directly assumes the risk for a business venture. According to Wikipedia ("Entrepreneur", 2006), an entrepreneur is someone who establishes a new entity to offer a new or existing product or service into a new or existing market. Business entrepreneurs often have strong beliefs about a market opportunity and are willing to accept a high level of personal, professional or financial risk to pursue that opportunity.

Franchise entrepreneurs in fast food in this context are those who run their own fast food outlets and either franchise some of the outlets or are considering franchising some fast food outlets. According to Timmons’s model definition of entrepreneur below, entrepreneurs are highly creative and innovative; at the same time they have high general management skills, business know-how and networking capabilities (Timmons & Spinelli, 2003). The relationships between these competencies are shown in Figure 3 below.

**Figure 3: Who is the Entrepreneur**



Source: Adapted from Timmons & Spinelli (2003, p. 65).

International franchising is a typical entrepreneurial activity by its very nature. Entrepreneurial areas of activity normally include financial support, government policies, education and training, knowledge transfer, commercial and professional infrastructure, market openness and barriers to entry, in addition to cultural and social norms (Frederick, 2005). Franchise entrepreneurs are challenged with all these factors before they are ready to enter new markets or expand in existing ones.

### 2.3.15 Emerging Market

As distinguished from high-growth and mature markets, emerging markets constitute the first level of economic markets. Emerging markets are those that have been

recently opened up due to political changes taking place. Generally, they have weak infrastructure and there is difficulty in accomplishing market-based exchanges, with limited alternatives in distribution and a risk in payment default (Johansson, 2006). Many less developed countries typically fall into this category.

## 2.4 Prospects of KSA Market Growth

The growth prospects of KSA are great. Many factors give KSA a unique position for investors. The Kingdom's new membership in the WTO, oil-richness, strategic location and diversified culture are among strong reasons to attract overseas investors and motivate local entrepreneurs. To decide on market prospects, an entrepreneur needs to consider decisive factors in the identified market. Such factors include market size, market growth, as well as trade barriers (Douglas & Craig, 2000; Johansson, 2006). This section casts light on some of the decisive factors that make KSA an attractively lucrative market to interested entrepreneurs.

Such prospects have attracted generous foreign direct investments to the Kingdom. According to the Saudi Arabia General Investment Authority (SAGIA), since April 2000, more than 3,000 foreign projects have been licensed in the Kingdom from 82 countries (including USA, Japan, Germany, and United Kingdom) contributing 88 billion US dollars in investment (Authority, 2006; SAGI, 2006).

From an overseas perspective, the Department of Foreign Affairs and Trade in Australia, for example, has described the second tier fast food franchise market as developing and having sound potential ("Doing Business with Saudi Arabia- Assessment of Growth Aspects", 2006). This shows the official Western indicators as encouraging investors to globalise in KSA; at the same time the Department asks

entrepreneurs to pay particular care to legal aspects of franchise agreements in the area.

Below are key indicators of the growth prospects of the Kingdom. They constitute one of the main deciding factors in entering or expanding in the market by franchise entrepreneurs.

### **2.4.1 WTO Membership**

The Kingdom of Saudi Arabia has just joined the WTO making it the WTO's 149<sup>th</sup> member in December 2005 ("Saudi Arabia to benefit from WTO accession", 2005). Market growth prospects tend typically to increase following the KSA membership of the WTO. Joining the international community of the WTO, according to Saudi Arabia's Minister of Commerce and Industry, would give KSA the opportunity to be more attractive for foreign investments ("Saudi Arabia to benefit from WTO accession", 2005). In 2005, KSA was able to attract record investments amounting to US\$ 17 billion, a 17-fold increase over the previous year ("Saudi FDI hits record high of \$17 billion in 2005", 2006).

Further, with borders open to franchise entrepreneurs from other WTO members, the inflow of franchise enterprises would improve the existing market prospects. From a local perspective, franchising is a form of technology transfer that comes as a direct benefit of globalisation to improve the local economy. This covers the transfer of the technical know-how as well as the management know-how from the overseas franchise entrepreneurs to the local entrepreneur, besides the training opportunities on the franchise operations.

## 2.4.2 Wealth

Further, the oil-rich KSA continues to hold a lucrative position for investors. Higher oil prices would put more discretionary income in the hands of consumers. The total amount of commodity imports and exports as well as service trade in KSA accounts for 70 percent of GDP, which represents a relatively high percentage among the WTO members ("Saudi Arabia to benefit from WTO accession: minister", 2005). KSA has 25% of oil's proven reserves in the world, and represents the largest exporter of petroleum. Meanwhile, it continues to be the world's lowest-cost producer of oil (at about \$1.5 a barrel). This importance gives KSA considerable leverage in world affairs (Hill, 2005).

Furthermore, the prospect for franchise growth is further enhanced by the fact that for wealthy locals, franchising is an opportunity to put idle financial resources into pre-tested productive business operations (Tuncalp, 1991). Saudi entrepreneurs usually have the funds necessary to start a business. However, they are hesitant to strike out on their own with a totally new idea; this creates a great potential for Western franchisors to expand in KSA (Service, 2005).

## 2.4.3 Strategic Location

Further, KSA is uniquely positioned as it contains Mecca, the pilgrimage site for all Muslims around the world. This means any franchise taking place in the area would be exposed to international pilgrims, and hence would build an international reputation. Entrepreneurs building a good reputation in the area would be likely to be approached by prospective franchisees for overseas franchises. Furthermore, the sales volume generated by virtue of this strategic location is voluminous; one summer campaign, for example, has attracted 600,000 pilgrims during the season, generating

SR 3 billion (approx. US\$ 81 million) all over the Kingdom ("Consumer Foodservice in Saudi Arabia", 2005). Tourists and pilgrims mainly target fast food outlets.

#### **2.4.4 Culture**

To compound the location value above, it is worth noting that KSA is a diversified culture of migrants and guest workers, a fact that would help diffusion of franchising in KSA. Culture is known to have direct effect on franchise entrepreneurial opportunities (Frederick, 2005). About 21% of the population is foreign ("Wikipedia, the free encyclopaedia: Saudi Arabia", 2005). This international diversity, according to the above encyclopaedia, includes Arabs, Turks, Iranians, Malays, Indians, Pakistanis, Bangladeshis, Indonesians, Filipinos, and Westerners, from 190 different nations ("Saudi Arabia", 2005).

Due to cultural restrictions on bar entertainment, fast food has become very popular in KSA. Eating out is considered a very important aspect of leisure activity in KSA. Families prefer to eat fast food as a change from dining at home, especially on the weekends. Due to such popularity, fast food has registered a periodic 45% growth in outlets in December 2005 ("Consumer Foodservice in Saudi Arabia", 2006).

#### **2.4.5 Population**

In tandem with the above diversity is the fact that KSA has one of the world's fastest population growth rates ("Saudi Arabia: Country Analysis Brief", 2005), besides having one of the world's best health care systems ("Saudi Arabia: Health", 2005). Alongside the above is the fact that urbanization is growing quickly in KSA, with most of the population in metropolitan centres ("Saudi Arabia: Urbanization and

Development", 2005). All these factors give the KSA market great prospects for growth and FDI attraction.

The prospects become stronger when we consider the dominant age factor and exposure to Western culture. Almost 60 percent of the population in KSA is under the age of 16, and many have travelled to Europe and the United States and acquired a taste for the Western fast food franchises ("Saudi Arabia", 2005). The opportunity for fast food franchises is enhanced by the fact that the expatriates in KSA find in the fast food franchise a way to get the same type of food and quality they used to get back at home.

#### **2.4.6 Ownership Requirement**

Restriction on full ownership of the investment is typically considered a big disincentive for foreign investors. Many host countries have either completely removed or significantly liberalized their local ownership requirements as a measure to encourage FDIs. China is just beginning to relax these restrictions (Gitman, 2006). India, on the other hand, still insists on majority local ownership. In KSA, however, there is very limited restriction on ownership; foreign investors can buy 100 percent of Saudi companies, or totally own their projects ("Saudi FDI hits record high of \$17 billion in 2005", 2006).

This may prove critical to overseas franchise entrepreneurs. Full ownership, as well as majority foreign ownership, would typically result in a substantial degree of management and control over the operation (Gitman, 2006). With this in place, franchise entrepreneurs are ensured that they can get into the market without risking some other partner influencing their day-to-day operations to the detriment of management policies and procedures. Further, with full foreign ownership, franchise

entrepreneurs do not have to worry about possible disagreements among partners as to the exact distribution of profits and the portion to be retained (Gitman, 2006)

### **2.4.7 Profit Remittance**

Franchise entrepreneurs operating in foreign countries are usually faced with the problem of restriction on the profit remittance, especially on a joint-venture basis. Some emerging markets, such as Argentina and Thailand, have imposed a ceiling on capital repatriation and profit remittance (Gitman, 2006). This can be very discouraging to the franchise entrepreneur considering investment in that part of the world. However, in KSA there is no restriction on capital repatriation or profit remittance. This would alleviate the concerns of prospective entrepreneurs considering pouring FDI into the Saudi market.

### **2.4.8 Taxes**

Taxation factors such as tax rates and taxable income as well as the local tax rules are taken into consideration in typical foreign entry. The level of tax rates levied in a country plays a great role in attracting or discouraging prospective investors. Less industrialized nations, such as KSA, would typically maintain relatively moderate taxes with the purpose of attracting foreign direct investments (Gitman, 2006). Low tax rates are known in countries such as the Bahamas, Switzerland, Liechtenstein, the Cayman Islands, and Bermuda (Gitman, 2006).

In KSA, overseas entrepreneurs have tax obligations. Their basic responsibilities to international taxation can be a barrier to their entry to KSA market. Foreign investors in KSA are subject to a 30 percent tax rate. This can be considered a discriminatory measure by the government against foreign investors at the time that local

companies are subject to a 0 percent corporate tax rate ("2005 Index of Economic Freedom", 2005). This tax discrimination in favour of local companies needs to be seriously taken by foreign investors who can consider licensing as a viable part of their market entry.

Tax in KSA can be a country-specific advantage for entrepreneurs. This advantage becomes obvious when you consider that typically in other countries, tax treatment is much more complex and costly. Some countries tax profits are received on a cash basis, rather than on accrual basis (Gitman, 2006), as is the case in KSA.

#### **2.4.9 Fast Food Franchising**

Ultimately, the above prospects are ratified by the fact that franchising in particular has been expanding in KSA at a phenomenal rate of 10 percent, outpacing other sectors (IPR, 2005). Franchising as a business format in KSA can be traced back to the mid 1970s, when KFC opened in Riyadh (Tuncalp, 1991). The current picture of fast food franchising reflects a huge market totalling 8,389 outlets as shown in Appendix 10.6 below.

#### **2.4.10 Consumer Food Service**

Consumer food service is a huge industry in KSA. According to Global Market Information Database (GMID), in 2004, food service reached a total of SR 20 billion (approx. US\$ 5.3 billion), with 8,400 units, and 1 billion transactions. Fast food has registered 55% growth in the number of outlets, 61% increase in transactions and 68% increase in value sales over the review period ("Consumer Foodservice in Saudi Arabia", 2005). This increase can be attributed to the strong young population growth.

After the positive picture illustrated above on the prospects of the KSA market, now franchise entrepreneurs need to see what barriers might stand in the way of entry into the above lucrative market. The next section focuses on such barriers.

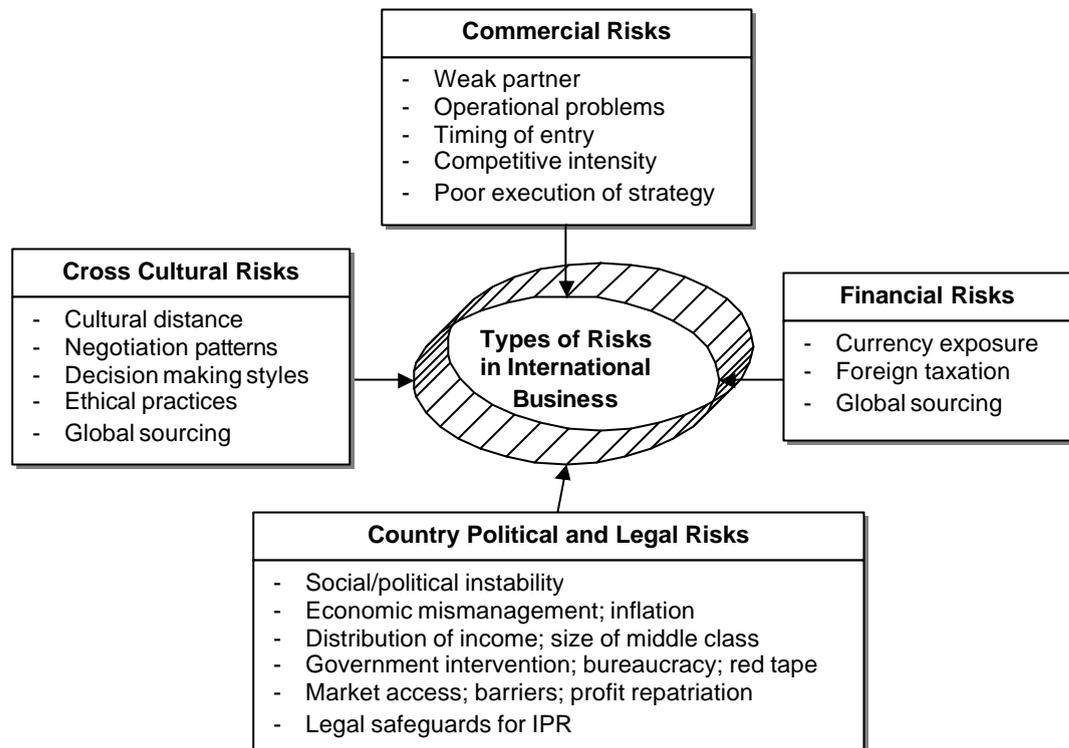
## 2.5 Barriers to Entry

Foreign entry is usually associated with disincentives, risks, and barriers. Market entry barriers generally lead to obstacles which make it difficult for entrepreneurs to enter a country or a region. Where the barriers are sky-high, entrepreneurs might be left with only one choice or just stay out of. With KSA joining the WTO, many of the barriers have been removed, especially those related to tariff and the flow of products across borders (Hill, 2005).

Further, it is generally accepted in the industry that the further the company moves from a wholly-owned subsidiary to an alliance, the more risks will be faced (Anderson & Gatignon, 1986; Barkema, Bell, & Pennings, 1996; Erramilli & Rao, 1990). The nature of the market entry barrier has direct influence on the mode of entry to be selected by a company (Johansson, 2006). In their entry into the fast food market in KSA, franchise entrepreneurs face two major challenges related to the quality of operation as well as the protection of intellectual property rights.

Risks that a fast food franchise entrepreneur might expect to face generally fall into four major categories (Cavusgil, 2004). Figure 4 below illustrates that the risk barriers to market entry include commercial risks, cross-cultural risks, currency/financial risks as well as country political and legal risks.

**Figure 4: Barriers / risks faced by franchise entrepreneurs**



Source: Adapted from Cavusgil (2004)

In this case study, the focus is mainly on operational quality barriers, illustrated under commercial risks in the above diagram, as well as the legal safeguards for intellectual property, illustrated under country political and legal risks. However, other barriers, such as the cultural and political ones, play a critical role in facilitating or impeding the market entry process.

### 2.5.1 Service-Specific Barriers

The service industry, in particular, has its own distinctive barriers. Barriers in service can be greater than those in products due to the intangibility of services. In a study of 384 US service firms engaged in international operations, Reardon, Erramilli & Dsouza (1996) have identified ten major barriers that face service firms in penetrating a foreign territory as shown in Table 1 below. The results revealed by this study

overlap with some of those revealed above by Kobrin and Cavusgil (2004; Kobrin, 1979).

**Table 1 Barriers to Service Expansion Abroad**

<b>Problem</b>	<b>Frequency with which cited</b>
Host-country restrictions and regulations	21.6%
Market Related	19.5%
Coping with Cultural Differences	13.8%
Staffing and Personnel	13.0%
Logistics and Management	8.3%
Locating Appropriate Agents/Associations	5.2%
Lack of information and knowledge	3.1%
Strategy Implementation	2.3%
Laws and regulations	1.3%

Source: Adapted from Reardon, Erramilli, & Dsouza (1996)

## **2.5.2 Cross-Cultural Barrier**

The cultural barrier between the East and West is wide. The franchise entrepreneur's perception of the Saudi market is blocked by his/her cultural experience (Fletcher & Brown, 2005). However, the cultural distance, or what Hofstede (1994) called 'the psychic distance' plays a big part in determining entry into a country such as KSA, especially as this requires a franchise entrepreneur to engage in 'double layered acculturation' (Barkema, Bell, & Pennings, 1996). The index of psychic distance ratings of countries might prove very helpful in determining whether the cultural distance creates a real barrier to franchise entrepreneurs (Barkema, Bell, & Pennings, 1996; Fletcher & Bohn, 1998).

As a Middle Eastern country, KSA holds great cultural differences for a Western franchise entrepreneur. These differences can be related to the concept of time and space. While time is so critical for a Western franchisor, it is not so for a Saudi national who might have plenty of it, or who might be culturally-restricted to show the criticality of one's time. While a large amount of space might not be a sign of prestige for a Western franchisor, it is so for a Saudi national.

The language, of course can be a major cultural barrier. The nature of discourse might constitute a major barrier for the Western franchise entrepreneur. While the Western entrepreneur might go directly to the point with precision, a high-context Arabian culture tends to show more elaboration in conveying the message. Hence, the challenge for the Western entrepreneur lies in learning the styles and basics of the language of the host country (Fletcher & Brown, 2005).

### 2.5.3 Political Risks

The above risks given in Cavusgil (2004) are also supported by Kobrin (1979). Political risks are presented in four levels in relationship to foreign entry. Table 2 below exposes the factors that a franchise entrepreneur needs to consider on top of the cultural ones.

**Table 2 Political Risk Factors**

	<b>Factors</b>	<b>Examples</b>
<b>Level 1:</b>	General instability	Revolution, external aggression
<b>Level 2:</b>	Expropriation	Nationalisation, contract revocation
<b>Level 3:</b>	Operations	import restrictions, local content rules, taxes, export requirements
<b>Level 4:</b>	Finance	Repatriation restrictions, exchange rates

Source: Kobrin (1979)

Political stability does not imply the absence of changes in the targeted market. Change is always there. The type of stability specified by Kobrin (1979) indicates that the change carries a minimal adverse effect on the targeted business in the Kingdom. Expropriation, placed in level 2 political risks factors above, happens when the government in the host country seizes the entrepreneur's business with some reimbursement for the asset (Cateora & Graham, 2005). Not only have expropriations lessened over the last decade, but also presently developing countries are viewing privatisation and foreign direct investments as a means of economic growth (Makhija, 2003).

Having mentioned the prospects of the Saudi market in the first section, franchise entrepreneurs should be well aware of the unique political problems of the Middle East. This is a diverse region where political factors are generally heightened (Garten, 1997). Gulf people are very different from other Middle Eastern countries (Fletcher & Brown, 2005). There must be a trade-off between the above growth attractiveness and the lack of attractiveness from a political perspective, where regimes pursue economic but not political liberalization (Trimeche, 2004).

#### **2.5.4 Quality Barriers**

The quality of fast food operations, especially in foreign emerging markets, depends heavily on the people directly in operation. Hence, it is very critical for the fast food entrepreneur to have access to qualified and professional human resources. One of the critical factors in entering the fast food market in KSA is the ability of the entrant to secure the type of staff it desires.

Enforced Saudization tends to hamper productivity and increase the company's employee turnover rate. The government requires that companies hire Saudi

nationals in an annually increasing percentage. This constitutes a big disincentive for foreign investors as well as local entrepreneurs ("2005 Index of Economic Freedom", 2005).

The government has promulgated decrees in place requiring private companies to increase the percentage of Saudis on their payroll by 5% every year. This target proved impractical and companies were not able to achieve it. It was met with considerable resistance from both foreign and local employers. The objection is that businesses cannot find Saudis with suitable training for the job. Furthermore, few Saudis have the kind of work ethic desired by employers. However, recently the pressure of unemployment has forced Saudis into lower positions such as receptionists, kitcheners, and restaurant cashiers (Richards, 2001).

Another reason why Saudization acts as a disincentive is the added cost factor. Non-Saudi labour is known to cost less, follow instructions, arrive on time and is prepared to work six days a week (Gresh, 2000). Some undesirable social mores of the Saudis are changing. The faster the change occurs, the less of a barrier Saudization will be to successful attraction of franchise entrepreneurs.

Direct control over operations boosts quality. The need of the entrant to maintain direct control over the operation is mainly precipitated by the need to safeguard the level of quality and maximise returns. One way to exercise control is to have direct access to knowledge. Knowledge is power. Conversely, less knowledge may imply less power. The same saying goes when selecting a specific mode of entry mainly to get more information, consolidate control, and hence alleviate the risk of compromising quality.

One of the inherent barriers to expansion through alliances is the fact that the entering company will have limited chance to directly enhance its knowledge about

the new market, and hence improve its skills repertoire (Johansson, 2006). This limitation of direct knowledge about the new market would worsen the company's opportunity for optimal policing of the other party's operations. Further, the continual improvement process of the quality is endangered by such 'remoteness' from the direct operation.

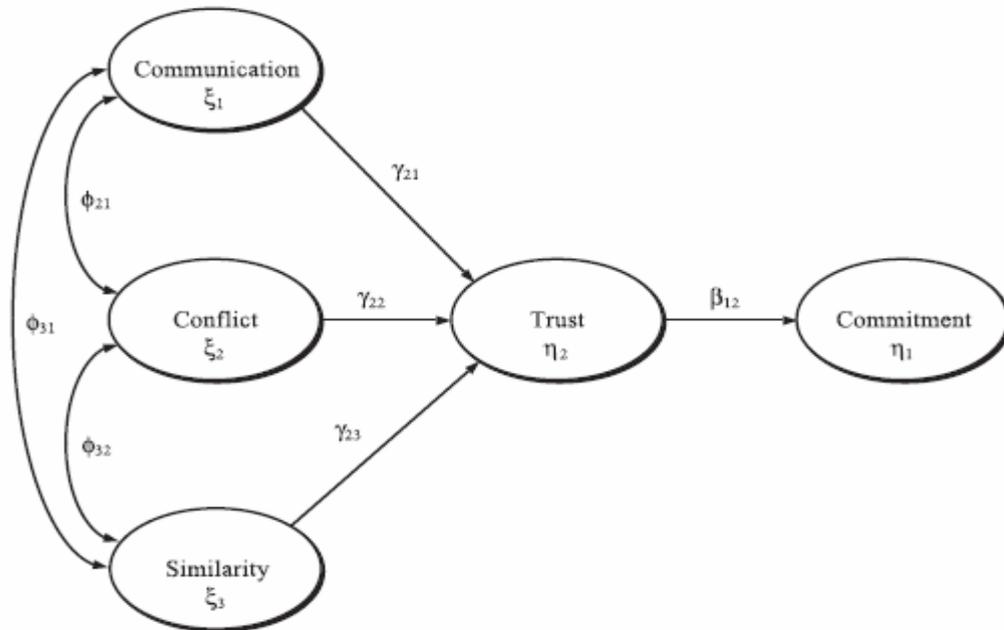
For chained fast food operations, quality is considered vital for the success of the operation. If quality is to be compromised while choosing alliances for expansion, a company might be left with no choice except to go on its own. Johansson (2006) has concluded that when the alliance is deemed too risky the company will be left with no choice except to internalise; i.e., to expand on its own and retain control over its firm-specific advantages. This position can be viewed in line with Mendelsohn where it is suggested that a franchise entrepreneur can expand through wholly-owned subsidiaries, but not without a burden on financial and human resources, until such a time when it is ultimately desirable to use franchising (Mendelsohn, 2005).

Further, in order to "safeguard" quality, if the company opts to externalise operations, an equally important measure would be to own *some* of the outlets within the region of externalised locations. In Paris's Champs Elysees, for example, McDonald's has kept ownership of, rather than franchising, some of the key locations purely for the purpose of quality maintenance (Johansson, 2006).

Having considered the above internalisation option to safeguard quality, it is important for franchise entrepreneurs to adopt sound strategies to achieve the utmost commitment of franchisees to the quality of operations. The more frequently communication is conducted with franchisees the more trust franchise entrepreneurs can build with partners. Once trust is built, partners' commitment comes as a by-

product of that trust (Coote, Forrest, & Tam, 2003). This fact is illustrated in the following model:

**Figure 5 Antecedents of Commitment**



Source: Adapted from Coote, Forrest, & Tam (Coote, Forrest, & Tam, 2003)

The above effect of trust on relationship commitment has earlier been confirmed by Ambler, Styles, & Xiucum (1999). The personal aspects of the relationship between the franchise entrepreneur and franchisees have positive impact on the performance of franchisees.

Hence, franchise entrepreneurs who are worried about franchisees' commitment to quality need to regularly assess their relationship with franchisees. The franchisor's critical relationships are based on trust, interaction frequency, and commitment (Rinehart, Eckert, Handfield, & Jnr, 2004). To assess the relationship in a systematic way, a franchisor needs to consider measures related to personal characteristics, communication frequency, perceived dependence, organisational capability, business volume, and investment. Such measures include cooperation, interdependence,

commitment, trust, opportunistic behaviours, communication and conflict resolution, power, shared values and relationship outcome (Fontenot & Wilson, 1997).

Trust, as a deciding factor in assessing franchisor's critical relationships, can be seen from two perspectives: the personal characteristics of the franchise entrepreneur, and the organizational capabilities of both the franchise entrepreneur and its franchisees. Relationships usually start with legal contracts; however, greater familiarity between the franchise entrepreneur and franchisees would breed trust and replace legal relationships (Gulati, 1995). However, trust is difficult to observe and measure. Trust has "a taken-for-granted character since it is so closely linked to fundamental social norms and customs" (Gulati, 1995, p.94).

When it comes to interaction frequency assessment, franchise entrepreneurs can measure their relationship with franchisees on two levels: the personal and organizational. The personal level is where *communication frequency* affects the perception of the value that the franchise entrepreneur and franchisees create through the time spent in mutual communication. At the organizational level, interaction frequency is tied up to the *business volume* transacted between the franchise entrepreneur and franchisees; guaranteed business volume, such as that typical of a franchise environment, contributes to a stronger relationship between both parties (Rinehart, Eckert, Handfield, & Jnr, 2004).

The level of commitment franchise entrepreneurs can aspire to is a direct by-product of the inter-organizational relationship inside the franchisor's network. Commitment is tightly related to the perception of dependence a partner believes he/she has on the other partner. Commitment is also closely related to the volume of investment in time and other resources that the partners in the franchisor's network make in the

relationship. According to Gundlach & Achrol (1995), commitment is an essential ingredient for successful long-term relationships.

Ultimately, developing the right value chain in KSA would also constitute a major barrier to entry. When considering its value chain, the fast food entrepreneurs in KSA would face the fact that there are limited reliable suppliers providing the desired consistent quality. This would force entrepreneurs to build their own chain of supply in order to bridge the gap. On expanding to Moscow, realizing the shortage of reliable suppliers, McDonald's found no other choice except to build its own chain of suppliers (Johansson, 2006). That was simply because quality can not be compromised due to local suppliers inability to provide the consistent quality demanded by McDonald's standards.

### **2.5.5 Intellectual Property Barriers**

Protection of intellectual property of the franchisors is at the heart of the expansion or franchising model of franchise entrepreneurs. Intellectual property comprises approximately 85% of the overall economic value of a company (Fitzpatrick & DiLullo, 2005). It is important to note that the international protection of IPR is inadequate (Fletcher & Brown, 2005). Costly legal registration of the IPR might not provide the best protection if, for example, local legislation would outweigh prior use over prior registration.

From a legal perspective, the Kingdom of Saudi Arabia has already developed the legal infrastructure to protect intellectual property rights in the country as seen in Appendix 10.3. It has developed its own laws, and it has joined international bodies as part of the protection process. The last of these measures was its full membership

in the WTO on 11 December 2005 ("Understanding the WTO: The Organization Members and Observers", 2006).

Registration in KSA may give protection only to the IP of those companies whose countries of legal residence have signed the same international convention on intellectual property, such as the Paris Convention. Presently, becoming part of the World Intellectual Property Organization (WIPO), an entrepreneur in KSA does not need multiple registrations in multiple countries who are members in WIPO. The Kingdom is part of 183 states involved in the WIPO (WIPO, 2006).

However, no matter how solid the legal infrastructure, KSA is still in its infancy stage in implementing the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the international treaty by the WTO; hence, the threat of infringement is still there. Going through the checklist in Appendix 10.4 shows how far KSA must still go to fully enforce IPR global protection system. All countries, including the Kingdom, have until 2006 to implement TRIPS (Fletcher & Brown, 2005). When fully implemented, TRIPS would contribute to better protection of IPR and related dispute settlement.

Until the protection is well in place, entrepreneurs invent their own unconventional ways of protection. One way to protect their IPR is when entrepreneurs disclose *only part* of their trade secrets or processes to the other local partner (McGaughey, Liesch, & Poulson, 2000). In their case study on an alliance between an Australian entrant and a Chinese firm, McGaughey et al. illustrate that the conventional means of protecting intellectual property need not always be followed to best ensure the firm's retaining its competitive positioning in foreign markets. That 'segmentation' of IP is an internal issue over which the company may have some control.

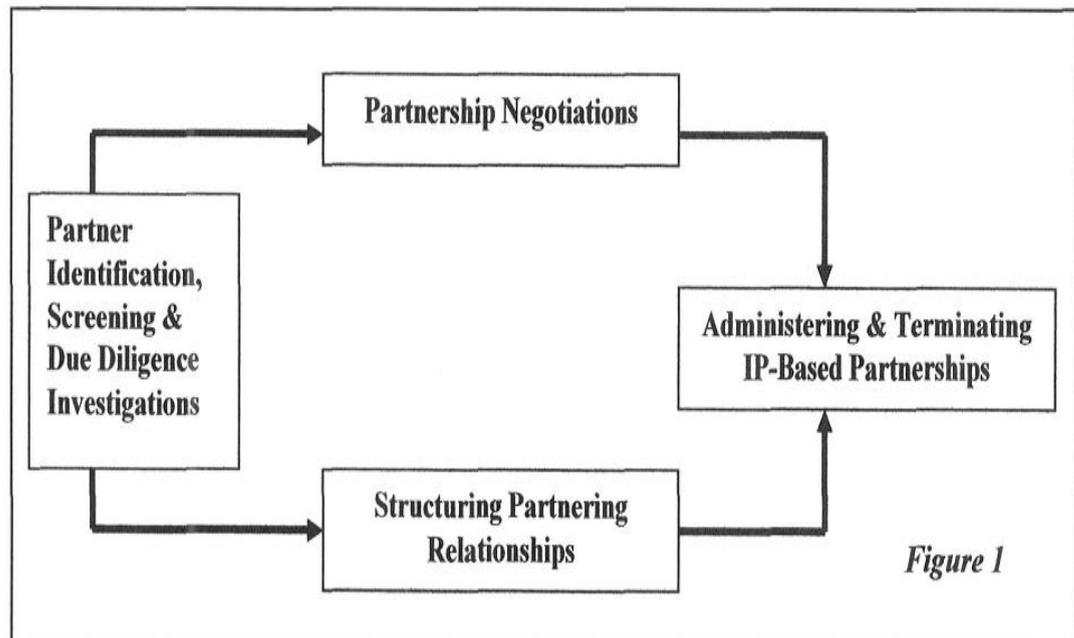
In addition, for effective protection, Schoeller (2003) suggests mutual shouldering of responsibility. Protection is a joint effort between franchise entrepreneurs and franchisees rather than the sole responsibility of franchisors, as it is commonly believed. Both franchisor and franchisees should work together to defend the brand's assets. The franchisee may have more strength in a particular locality or region, while the franchisor may have more overall global strengths.

Furthermore, when it comes to protecting trade secrets in R&D in a developing economy, Sanyal's research (2004) strongly supports only a wholly owned subsidiary expansion, without any alliance. The reason for that can be attributed to the limited scope of patent protection laws in developing countries. Sanyal fills a unique gap on how to protect the trade secrets as far as the location of R&D centres of is concerned. Sanyal helps fast food franchise entrepreneurs decide on whether to conduct R&D locally inside developing economies as compared to keeping the process within their corporate borders.

Further, protecting intellectual property may start at the early stage of contract negotiations. To protect against the "dissipation" of an entrepreneur's firm-specific advantages, contracts need to be well-designed to provide for worst scenarios. It is crucial, for example, to limit the territories of the franchisees or licensees as well as the timeframe of the license (Hall, 1983); At the same time, the contract should provide for the conditions that warrant termination of the license.

Protection of IP's starts even before contract negotiation takes place. Proper screening and selection is crucial in reducing the level of exposure in the future. As it is illustrated in Figure 6 below, Fitzpatrick & DiLullo (2005) suggest that investigation with due diligence should take place before formal engagement with prospect franchisees or partners.

**Figure 6: A Contract-Based Model of Intellectual Property Protection**



Source: Adapted from Fitzpatrick & DiLullo (Coote, Forrest, & Tam, 2003; , 2005)

However, when it comes to *brand piracy*, franchise entrepreneurs may be left with few choices in such an environment. Starbucks, a well known brand in the service sector, was entirely faked in China, for example, in 2004 (Fletcher & Brown, 2005). Comparatively speaking, although China was accepted in 1980 as a member of the WIPO, China's patent law in 1985 was vulnerable to one-sided interpretation (Chen, 1995).

In the international arena, multilateral negotiations conducted under the WTO in the Uruguay have boosted global intellectual property rights. With this protection in place, with KSA becoming part of the WTO, franchise entrepreneurs become less concerned about the infringement on their IPR in the Kingdom. This enhanced protection has opened up new modes of entry to franchise entrepreneurs considering global expansion. This protection may contribute to the increase of franchising and licensing in international markets (Czinkota & Ronkainen, 2002).

Ultimately, according to Luo (2001), the joint venture would be the preferred mode of entry in an emerging market, such as KSA. The case is more so when the perceived government intervention or political uncertainty is high. On the other hand, when the intellectual property rights are perceived not to be well protected, a wholly-owned subsidiary may become the best choice (Luo, 2001). This finding by Luo is also shared by Wei, Liu, & Liu (2004), where the authors confirm that a joint venture would be preferred if franchise entrepreneurs do not have a high level of the host region's experience.

## 2.6 Modes of Entry

### 2.6.1 Overview

This section discusses the alternatives available to entrepreneurs for expansion either through strategic alliances or wholly-owned subsidiaries. The strategic alliances in focus will cover relationships in franchising, and joint ventures, mostly as related to the fast food business.

Generally speaking, to choose a mode of entry into a market, a company must consider decision criteria covering areas such as market prospects, risks, government regulations, need for control, internal resources and capabilities. It is well established among international business scholars (Chi & McGuire, 1996) that it is not economically justified to enter into any sort of collaborative venture unless there exists some "complementarity" among the participating resources. Attracted by the lure of franchising, many companies select franchising as a growth alternative, and then haphazardly launch the business (Sherman, 2004), without consideration of other modes of entry.

Unfortunately, there is very limited academic research on franchise development in countries such as Saudi Arabia. Most of the literature is written in the business field and takes the form of books or magazine articles. No single undisputed authority has written on the subject. In order to overcome this shortage, a multi-disciplinary approach is followed in this review. Articles dealing with barriers to international expansion are sought; then separately, literature dealing with modes of entry is investigated.

## **2.6.2 Franchising**

As a global mode of entry, franchising is growing enormously. To ascertain the huge international growth of franchised business, John Preble (2004) has examined the actual growth of franchising globally during the 1990s using survey and archival data findings regarding franchising in 40 countries. He found that franchising is growing beyond expectation, generating an average of \$3.7 billions in annual sales. Interestingly, Preble also found that restaurants are experiencing the most franchising growth. These findings seem to be very encouraging for fast food franchisors to find new markets for their expansion.

By its very nature, franchising provides a great typical mode of entry for global expansion. Yet, compared to wholly-owned subsidiaries, a franchisor may have less quality control on the franchisees' operations; and there is a greater risk of IPR infringement. On the other hand, compared to licensing as a mode of entry, franchising provides a greater degree of control over the operations. The control in franchising can come basically from two sources. The franchisor can maintain the sole right to supply quality-sensitive products. Further, the franchisor can require franchisees to operate within a specific business format and abide by a set of established rules of operations (Spencer, 1994).

Further, with special focus on the franchising status in the Kingdom of Saudi Arabia, the writings of Tuncalp (1991) is considered a rich source. Tuncalp shows that KSA exhibits some attractive characteristics for penetration, yet franchising has made a limited appearance in the Kingdom, primarily in the fast-food services. Tuncalp reviews the history of franchising in Saudi Arabia and identifies some of the prominent participants in this area. He describes a number of problems that could be hindering successful exploitation of franchising in the area. At the same time Tuncalp outlines some practical solutions to the problems faced. Although his writings are no longer recent, yet many of the problems are still there and many of the solutions presented are still viable.

### **2.6.3 Licensing**

Licensing, as a mode of entry, is not commonly used in fast food operation. Franchising is preferred as it provides a degree of control over the operation, and hence ensures consistent quality (Spencer, 1994). However, licensing may be very seriously considered for the franchisor's food processing or commissary functions. The weight of a licensing agreement comes from the fact that it covers a much wider geographical area than a franchisee would. Hence, licensing is not a major focus of this study.

### **2.6.4 Wholly-Owned Subsidiaries**

By default, the initial entrepreneurial mode of entry is by wholly-owned subsidiaries (WOS). With this mode, the company can ensure greater control on operations and quality systems; more control would ensure consistent quality. It also would have less risk of IPR infringements. However, there will be the risks of full ownership.

With wholly-owned subsidiaries, entrepreneurs are more risk-averse. Firm-specific advantages are more protected in that mode of entry. Appropriability hazards are much reduced in WOS modes (Oxley, 1997). When entrepreneurs have a control strategic posture, more often they will select WOS in a targeted market. This type of posture holds true so long as entrepreneurs can sustain that posture. In this posture, an entrepreneur has his/her own well-established firm-specific advantages; has enough resources for expansion; and has a product with definite potential in the target market (Johansson, 2006).

### 2.6.5 Joint Venturing

Entering through joint ventures becomes very wise when the expansion is considered in the Third World Countries, given the potential risks stemming from political instability in the area (Gitman, 2006). That's why joint ventures are very common in most of the less developed nations (Gitman, 2006). Joint ventures in KSA are no exception; the first franchise for KFC in the mid 1970s, for instance, took the shape of a joint venture with a master franchisee, and expanded successfully for years (Tuncalp, 1991)<sup>1</sup>.

In expanding beyond one's locality, a company is often faced with *cultural* and *legal systems* that are different from those at home (Stanton, Etzel, & Walker, 1994). Thus that expanding company must first learn about the environment, and adapt accordingly. To address the above concerns, it is often 'essential' for the expanding entrepreneur to enter into joint-venture agreements with private investors, or with

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<sup>1</sup> The joint venture took place then under the name "Al-Ahlia Restaurants Company" between Al-Jazira Establishment for Trading and Industry and the master franchisee for the Middle East, Kuwait Food Company.

government-based agents, who are influential in the host locality (Gitman, 2006, p. 794).

According to Czinkota & Ronkainen (2004) the political side of the joint venture, the “Government-related reasons”, is the major rationale for joint ventures in developing countries. In this case study, KSA is not an exception. Access to qualified labour is a must in such a specialized industry. The Saudization requirement is very tough, and many entrepreneurs try to circumvent it.

Joint venturing may not be the first choice for some entrepreneurs due to its intrinsic disadvantages (Mendelsohn, 1999). Franchise entrepreneurs can consider joint ventures as a way of international expansion. However, the major disadvantage lies in ‘difficult’ disengagement; should there be a need for termination, due to a default of any type, it would be relatively easier for the franchise entrepreneur to terminate a sub-franchisor rather than a joint venture partner (Mendelsohn, 1992, p. 223). In this case franchising is considered more advantageous especially when the franchise entrepreneur does not have a presence in the territory. However, while Mendelsohn makes a valid point, it might not be judicious to support his standpoint as he did not thoroughly examine joint ventures in the present framework.

One of the major disadvantages of joint ventures may lie in the critical need for continuous maintenance of relationships. For joint ventures to be successful, the relationship must be based on trust and commitment; without these two elements it will be doomed to failure (Czinkota & Ronkainen, 2004). Hence, without proper management, joint ventures can fall short of expectations and disband.

Further a major disincentive behind joint ventures seems to be related to intellectual properties. Joint ventures have undeniable strengths, especially in mitigating political risks. However unless forced to by external factors, it seems entrepreneurs tend to

avoid that mode. This is simply because it entails a possibility of dissipating the entrepreneur's firm-specific advantages. Joint ventures involve transfer of know-how, manpower, capital, and technology on the part of entrepreneurs. Joint venture partners, on the other hand, seem to contribute mainly local market expertise and understanding (Johansson, 2006). The dissipation comes from the necessity of sharing of information.

## **2.7 Theoretical Foundation of Entry Modes**

### **2.7.1 Overview**

This section examines various theories and models in the literature that would contribute to the selection of a mode of entry into a market. Each theory approaches modes of entry from a different perspective. However, all theories propose some sense of trade-off between the resources to be committed and the degree of desired control. Many of these theories overlap and thereby provide triangulation in favour of one aspect or another. Barriers, disincentives and risks are considered in their relation to the cost of entry, as well as degree of adaptation, assimilation, or mitigation.

### **2.7.2 Conceptual Rationale behind Entry Modes**

The rationale behind selecting a mode of entry is driven by factors related to the company and factors related to the target market (Osland, Taylor, & Zou, 2001). Company factors include the international experience of the company, the need for local knowledge, synergies among global operations, competitive position, and the need to protect technology. Target market factors include political risks in the target

market, investment risks, host government local content requirements, and qualifications of local partners.

Some companies are more sensitive to external risks and other target market factors, while others are more sensitive to company factors such as the company's own experience in the target market, and tend to base their selection on that factor. Accordingly, Osland et al. (2001) recommend the joint venture as the preferred mode of expansion for companies with international experience in the target market.

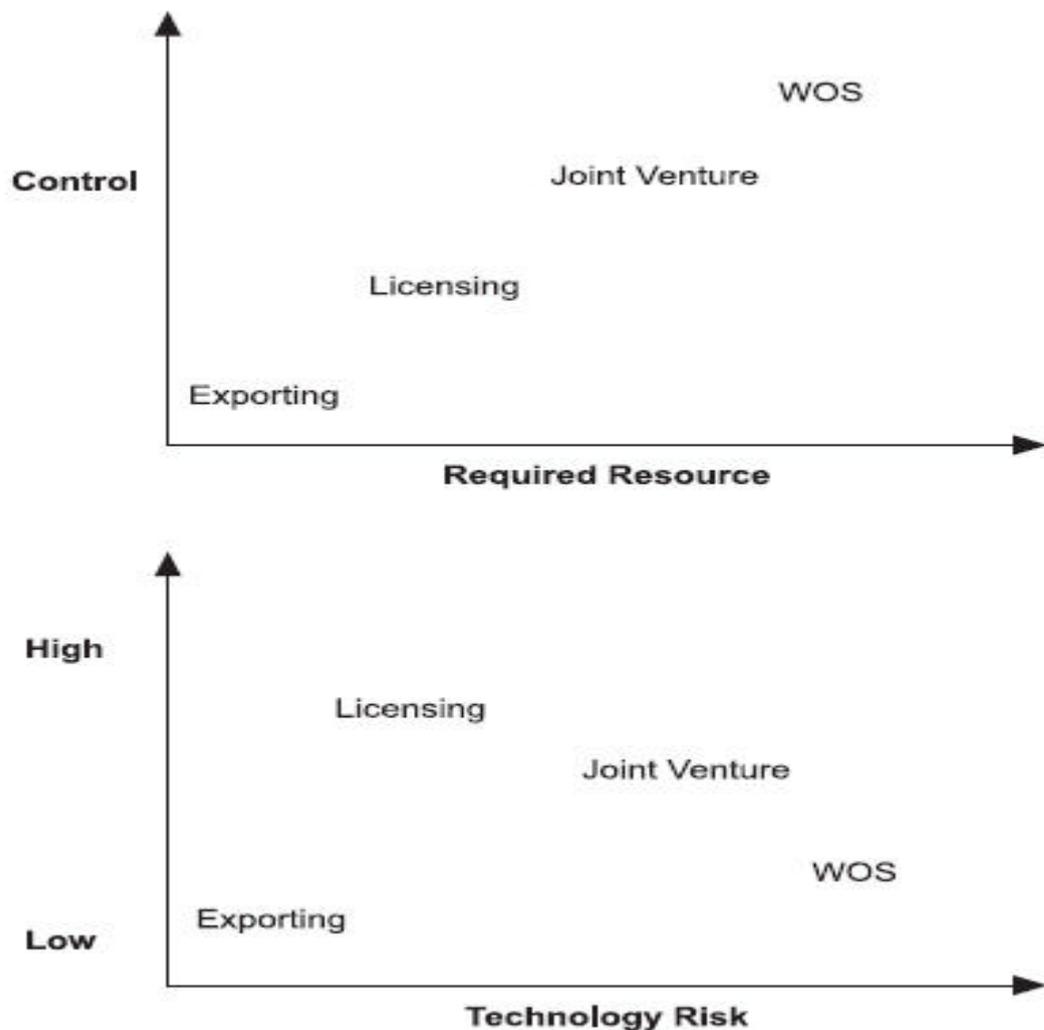
The recommendation of Osland et al. (2001) is supported by Mok, Dai, & Yeung (2002) who apply internalisation theory in order to explain the mode of entry of Coca-Cola to China in 1979. Their work provides an insight into the market penetration strategies of one of the world's largest multinational companies. In China, for example, Coca-Cola started with a franchise mode, then moved to a joint venture mode, and finally selected a combination mode of franchising and joint venturing. Mok, Dai, & Yeung's empirical study proves that internalisation theory is a useful conceptual framework for analysing the mode of entry in countries such as China, where there has been no franchise law and very limited implementation of IP protection. This study represents a significant advance in this field, as no previous study provided a theoretical foundation for the choice of entry mode in China.

However, the preferred mode of entry seems also to be driven by factors other than those identified by Mok, Dai, & Yeung above. Selection of a specific mode of entry may be dominated by the level of resource commitment required, the amount of control desired, and the level of risk (Maignan & Lukas, 1997; Osland, Taylor, & Zou, 2001; Woodcock, Beamish, & Makino, 1994).

Figure 7 below illustrates the relationships between the above factors and the selected mode of entry; the more control an entrepreneur requires, the more

resources need to be committed. By contrast, the less control-demanding mode of entry an entrepreneur requires, the less resources and costs are required. For fast food entrepreneurs who are looking for maximum control, and minimum exposure of technology risks, wholly-owned subsidiaries can be the answer. However, WOS is more resource demanding and more costly. Joint venture, by comparison, is less demanding in terms of costs and resources.

**Figure 7 Key Characteristics of Modal Alternatives**

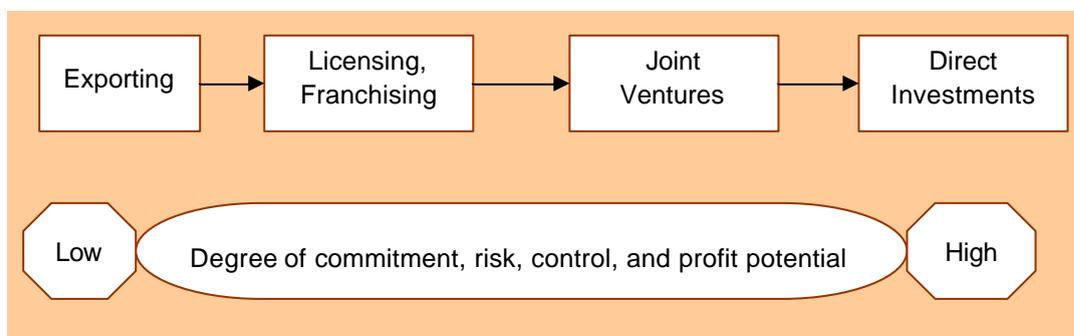


Source: (Maignan & Lukas, 1997; Woodcock, Beamish, & Makino, 1994)

The required resources, in Figure 7 above, that need to be committed in any mode of entry may include the intangible skills of management, and the equipment as well as financial investments. In franchising, control over operations is granted to franchisees (Osland, Taylor, & Zou, 2001); however, franchisors still keep control over quality through their audit system. On the other hand, when it comes to licensing the commissary part of the fast food business, franchisors will be met with the highest risk of technology exposure, but with less control and less resource commitment. The correlation among the above factors (control, resources and technology risk) is very high (Woodcock, Beamish, & Makino, 1994).

The above model of high control combined with high risk in WOS is confirmed later by Lovelock (2001), especially in marketing services. There is always some type of trade-off between control and resources; entrepreneurs commit more resources when they desire more control. Figure 8 below describes that trade-off; the more an entrepreneur moves towards direct investment, the more resources are to be committed, and the more risks he/she is going to take. Meanwhile, more control and profit can be achieved. The opposite is also true: the less control an entrepreneur is willing to take, the less resources he/she needs to commit and the less risks need to be taken; however, less profit is expected.

**Figure 8 Modes of entry in relation to resource commitment, risk and control**



Source: Adapted from (Lovelock, 2001)

Furthermore, in addition to the resource commitment and control shown above, risks play a major part, not only on the financial side. The risk factor in the above model relates primarily to the political instability of the targeted market or the increased cultural sensitivity. However, should the risk factors be formidable, entrepreneurs might become less enthusiastic to commit major resources to the targeted region (Kotabe et al., 2005). Further, it is important to notice here that fast food entrepreneurs who hold sensitive know-how and have a requirement to protect that know-how might not be able to enter the market through joint ventures ("Engine Makers Take Different Routes", 1998). The only option left to them might be entering through wholly-owned subsidiaries.

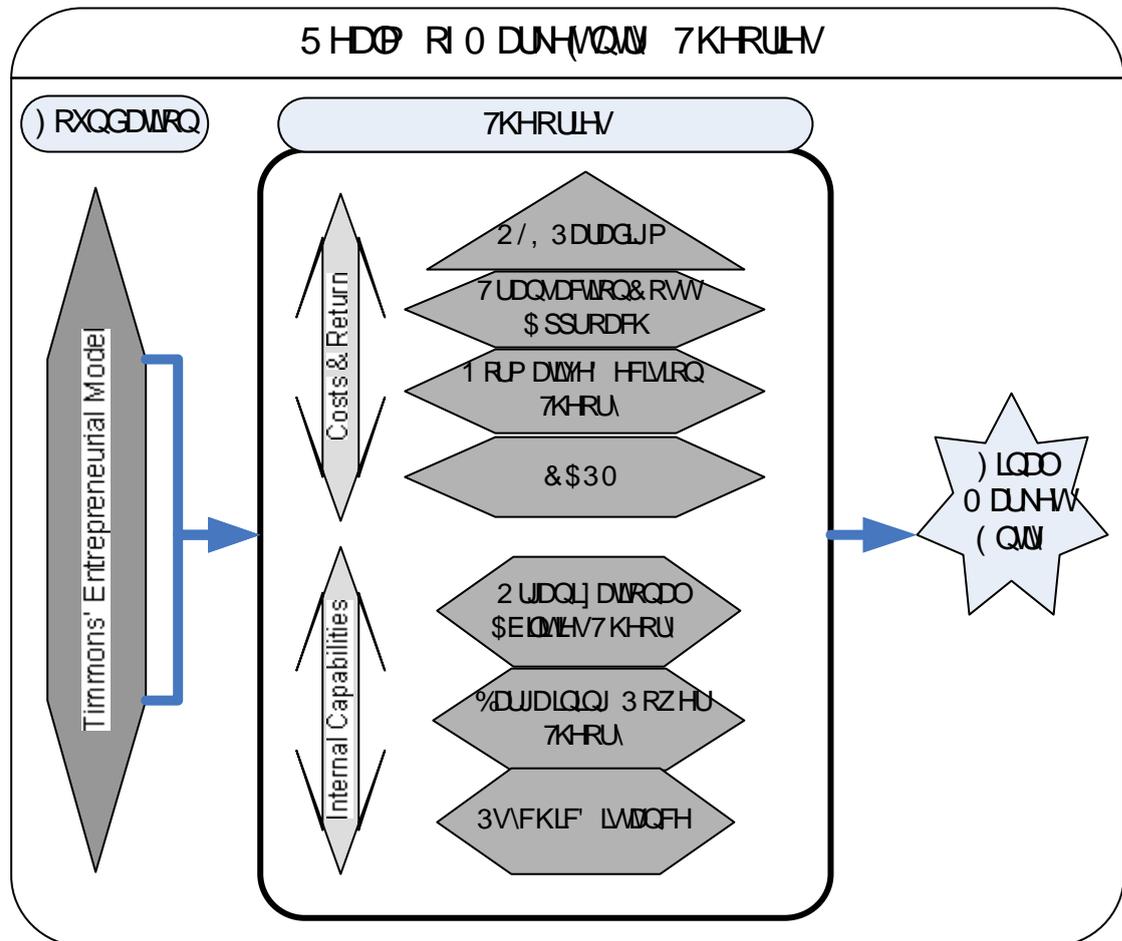
### 2.7.3 Theoretical Perspectives

Major theories that explain the selection of a mode of entry into an emerging market are shown in Figure 9 below. The root foundation behind entering, or expanding in, new markets lies in the entrepreneurial orientation of the entrant; *Timmons' entrepreneurial model* (Timmons & Spinelli, 2003) constitutes the basis of market entry. With proper entrepreneurial foundations in place, entrepreneurs may consider various market entry theories before they actually get into a market. This section examines various theories entrepreneurs may need to consider before making their decision on the mode of entry.

This model leads entrepreneurs to consider theories related mainly to costs and return as well as theories related to the internal capabilities and position of the entrepreneur. In the first segment, in evaluating the risks and returns of business in a specific mode of entry, entrepreneurs may examine *transaction cost theory*, *normative decision theory*, *CAPM model*, as well as OLI (ownership, location and internationalisation) within *Dunning's eclectic paradigm* (Anderson & Gatignon, 1986).

In the second segment, entrepreneurs may need to examine *organizational abilities theory*, *bargaining power theory* (Luo, 2001), and *psychic distance theory*.

Figure 9: Realm of Market Entry Theories



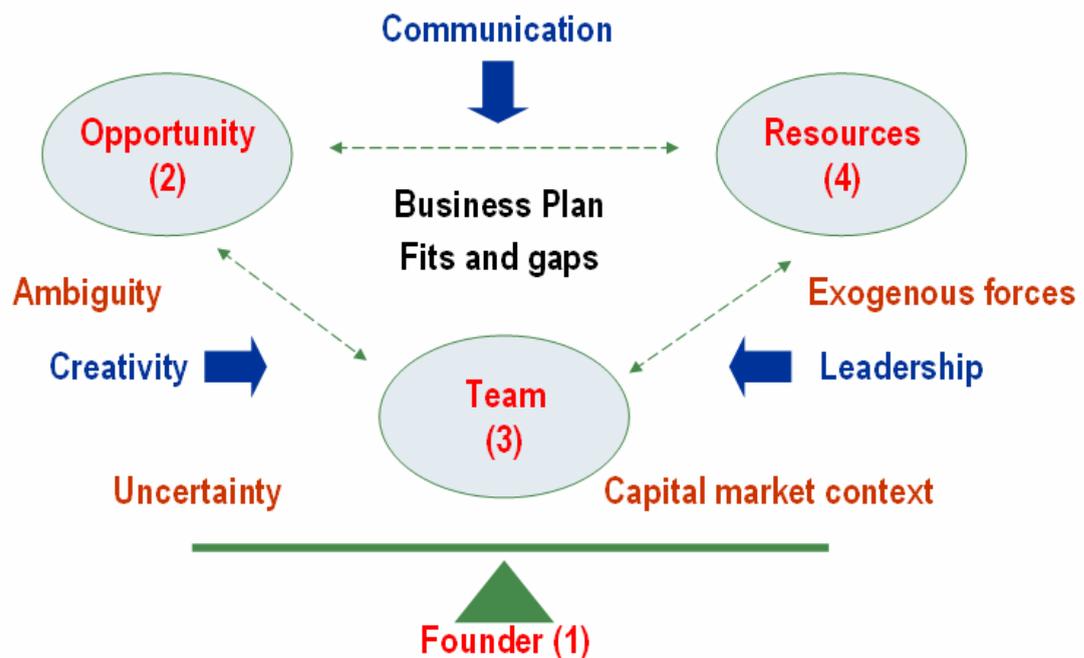
Source: Compiled by the author

### 2.7.3.1 Timmons Model of the Entrepreneurial Process

Selecting the mode of entry into another market is an entrepreneurial function. In order to understand expansion strategies into foreign markets, we need first to understand the drivers behind a franchise entrepreneur. The entrepreneurial process

is originally based on opportunity identification, and driven by an entrepreneurial team and resources (Timmons & Spinelli, 2003) as shown in Figure 10 below.

**Figure 10: The Timmons Model of the Entrepreneurial Process**



Source: Adapted from (Timmons & Spinelli, 2003)

In identifying opportunities, according to Timmons (Timmons & Spinelli, 2003), the entrepreneur's role is to manage and redefine the risk-reward equation.

Entrepreneurship entails ambiguity and creativity and it involves a great deal of uncertainty.

As uncertainty is established as part of the entrepreneurial activity, now entrepreneurs want to calculate the risks associated with that portfolio and make the decision of Go or No-Go. Many theories may come to help entrepreneurs calculate the various types of risks and costs to be faced. Of particular importance might be the transaction cost theory, the normative decision theory, and CAPM model.

### **2.7.3.2 Transaction Cost Theory**

Transaction costs theory is based on the economics of Oliver Williamson (Anderson & Gatignon, 1986). The importance of this theory lies in the fact that it is one of the first and most influential theories that seriously considers the structure of businesses. It takes into consideration *all* costs incurred in a transaction between a buyer and a seller. When considering an alliance mode of entry, transaction costs might well cover, on top of agreed fees and agency costs (Dark, 1988), the risks of compromising the operational quality and/or the brand name protection on the side of the contracted party. Vulnerability of operational quality can have a great impact on transaction cost.

Transaction cost theory argues that the selected mode of entry should be able to maximize long-term efficiency (Anderson & Gatignon, 1986). This efficiency is measured by the ROI (return on investment) with due adjustment of the risk factors. This theory takes risks into consideration, and posits that the more control the company has the more risk it involves and the more return is maximised at the same time. Accordingly, Williamson holds that WOS increases returns on one hand and intensifies risks on the other. By contrast, alliance, which implies less control by its very nature, decreases risk and lowers return. Williamson's principle of risk and return agrees with the capital asset pricing model (CAPM) of Sharpe (Ross, Westerfield, & Jordan, 2005; Sharpe, 1964, 1991), which holds that there exists a linear connection between risk and reward in portfolio valuation.

In evaluating transaction costs, franchise entrepreneurs need to consider all cost factors contributing to market entry. Such factors typically include, on top of financial investment, the human resource investment from the earliest stages of involvement. In addition, the evaluation should consider the political, economic, or cultural

uncertainties of the chosen market that may be inherent in that market or caused by the lack of experience on the part of the entrepreneur. Evaluation would also cover the risk related to the compromised level of control over the expected partner in the chosen mode of entry (Fletcher & Brown, 2005). Finally, entrepreneurs need to consider the risk of agency management, where the other partner might exploit the relationship with the franchise entrepreneur for his/her own personal benefit.

An *established* brand name of a fast food business serves to lower the cost of transaction since the buyer can *trust* the quality of the product and hence reduce the 'search' costs. If control over quality is not properly achieved, this trust is endangered, and transaction cost theory would predict that future purchases will be done only at a higher cost. Transaction cost analysis may provide an effective framework to compare the costs of running the operation in order to determine which mode of entry is feasible and more profitable.

Before applying the transaction to a control-oriented mode of entry, such as WOS or majority-equity joint venture, it is important to ensure the feasibility of positive returns from the targeted market. So an assumption should be made, before starting to analyse the entry transaction, that the targeted market has potential to a degree that allows recouping of the overhead of the high-control specific expenses. If this potential is not there, then this mode is disregarded (Anderson & Gatignon, 1986).

Another assumption, according to market efficiency theory, is that a lower level of control should be targeted unless there is a real need otherwise. In an empirical study on decisions of market entry by 180 large companies, Gatignon & Anderson (1988) found that WOS is preferred in R&D intensive business, or advertising-intensive businesses. Alliance is preferred when the targeted market has high political risks or the culture is highly distant.

That is the exact reason why a franchise entrepreneur might adopt the internalisation theory (Buckley & Casson, 1998) and opt for WOS mode. To ensure against unnecessary costs of transaction, companies tend to achieve rigorous control via 100 percent ownership (Johansson, 2006). By maintaining the quality of the operation and protecting the firm-specific advantages built within the brand name, companies aim to maintain a sufficiently low transaction cost. However, a strategic alliance may be formed in order to minimize costs and mitigate risks. With a strategic alliance, franchise entrepreneurs can internalise all necessary processes, thereby maximising control and reducing uncertainty (Fletcher & Brown, 2005).

### **2.7.3.3 Normative Decision Theory and CAPM**

To keep risks under control, normative decision theory (Hansson, 2005) suggests that the choice of the mode of market entry should take into consideration the trade-offs between risks and returns (Chi & McGuire, 1996). Similarly, Sharpe's capital asset pricing model, CAPM (Sharpe, 1991) is distinguished by the fact that it takes into consideration both the systematic and non-systematic risks of the identified opportunity; and the results are directly related to the financial aspect of the opportunity.

Each mode of entry has its own risks and returns which a franchise entrepreneur has to weigh one against another. In the end, the most basic question in choosing the mode of entry is how a company can get some return on its firm-specific advantages (Johansson, 2006). In the fast food industry, such firm-specific advantages include the brand name, patents, operation processes, and trade secrets.

#### **2.7.3.4 OLI Paradigm**

In Dunning's (1995) eclectic paradigm, any entry mode is influenced by ownership, location, and internalisation (OLI). This paradigm is based on two concepts. The first foundation is that each country has its own positive factors that are different from other countries. The more disadvantageous these factors are, the greater the possibility that entrepreneurs will take their own business overseas. The second foundation is that related to market failure, where barriers and risks in different countries determine target markets of entrepreneurs.

The OLI paradigm examines the advantages entrepreneurs may have in relation to their ownership, location, and internalisation. The ownership advantage relates to whether entrepreneurs can easily recoup the costs of building their own business overseas. To justify entry into a different market, entrepreneurs must have some firm-specific advantages that are suitable for the targeted market.

The location advantage relates to whether it is more advantageous for the entrepreneur to have his/her own subsidiaries overseas than via other modes of entry with less direct engagement. Location advantages materialize when an entrepreneur performs certain activity at specific locations. The internalisation advantage relates to whether it is more beneficial for an entrepreneur to expand through wholly-owned subsidiaries than through other forms such as licensing or joint ventures.

This eclectic paradigm, however, is criticized as being more of a "paradigm" or a framework and less of a model in order to provide detailed advice on research design (Buckley & Casson, 1998). In the fast food operation, OLI might have more application in the commissary part of the international fast food business, than in day-to-day operations.

### **2.7.3.5 *Bargaining Power Theory***

In this theory Boddewyn & Brewer (1994), argue that the bargaining power of the entrepreneur, vis-à-vis that of the foreign partner, is a great determinant of the mode of entry into foreign markets. It depends on the entrepreneur's bargaining abilities to set discussion parameters with the prospective overseas party, win compromises and skew the outcome of discussions towards a stronger ownership alternative. An entrepreneur is likely to select a high control mode of entry if the overseas market desires to attract foreign direct investments, the entrepreneur has little need for local resources, and the entrepreneur's resource commitment is low, while political risks are high (Luo, 2001).

The assumption behind the bargaining power theory is two-fold. Entrepreneurs would like to get a high control mode of entry in order to achieve the highest return and safeguard their intellectual properties, trade secrets and know-how. On the other hand, the host territory prefers to have a lower control mode of entry in order to facilitate more technology transfer and know-how to the local firms. If corporate actors are able to negotiate optimal terms with the new market's political actors, entrepreneurs are likely to choose wholly-owned subsidiaries rather than having to forge a political alliance.

### **2.7.3.6 *Capability Building Theory***

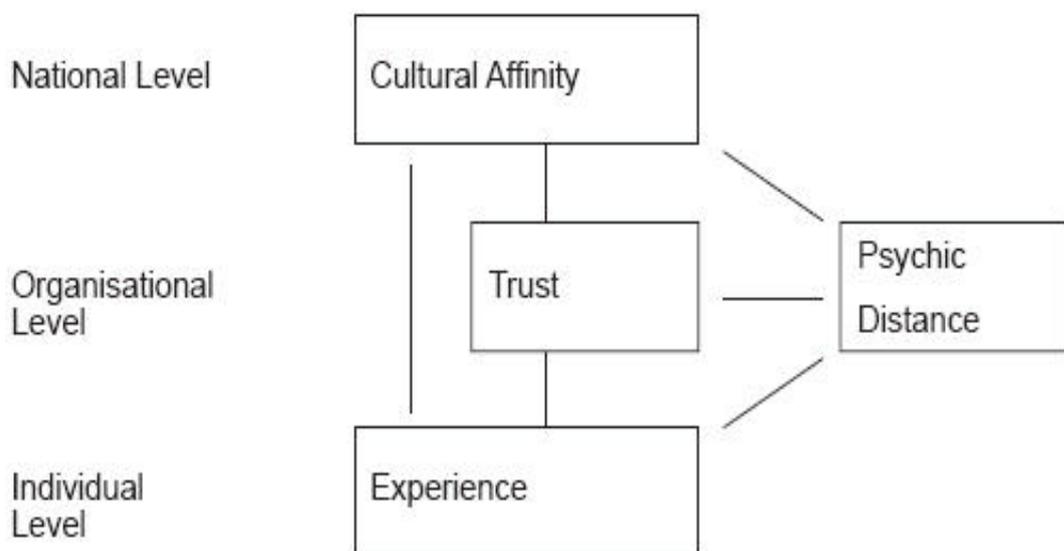
The company's internal resources and capabilities play a major role in identifying the mode of entry, on one hand, while the vulnerability to external risks in the target market plays another. The reasoning behind using the organizational capability building is the entrepreneur's desire to cope with the pressures of increased global competition, and rapid technology development. No entrepreneur can maintain competitiveness relying on its own capabilities (Luo, 2001).

That's where relationships effectively come into play. From this perspective franchising and alliances are considered a cost-efficient alternative to WOS as well as a great way to acquire new knowledge. Conversely, if the company has a strong knowledge base and the required capabilities, control through internalisation might provide a higher competitive advantage.

### 2.7.3.7 *Psychic Distance Approach*

As we have seen, psychic distance is a determinant in market entry (Hofstede, 1994). According to the psychic distance theory (Swift, 1999), the closeness or distance is determined by three factors: the cultural affinity with the prospect market, the level of trust as well as the individual experience of executives as illustrated in Figure 11 below.

**Figure 11: Psychic Distance**



Source: (Swift, 1999)

Hence, the closer entrepreneurs are to a specific target market in terms of culture, trust or experience, the higher priority that target market will take on their entry agenda.

### 2.7.4 Optimal Mode of Entry Matrix

It seems there is an agreement among scholars that market entry is affected by the firm’s specific advantages (FSA) as well as the market factors (Johansson, 2006; Luo, 2001; Wei, Liu, & Liu, 2004). According to the nature of an entrepreneur’s FSA, a firm may adopt one of three strategic postures on entering a market: incremental, protected and control.

The incremental posture is taken when entrepreneurs have *few* resources that can be dedicated to entry. This may be the typical situation when an entrepreneur starts the first few outlets of the business, just before starting internationalisation. The protected strategic posture is adopted when entrepreneurs have well-protected brand and trade secrets with global potential; however, they still need to develop more local familiarity with the market. In this case the limits to the market entry resources are *self-imposed*. The control strategic posture takes place when entrepreneurs have well-established FSAs, with enough resources to dedicate, and a brand with definite global potential. In this posture the entrepreneur can globalise business without jeopardising any of his/her FSAs (Johansson, 2006).

Preferred modes of entry for each of the above strategic postures are shown in Table 3 below.

**Table 3 Optimal emerging market entry matrix**

Strategic Posture	Product	Services
Incremental	Indirect exports	Licensing/Alliance
Protected	Joint ventures	Licensing
Control	Wholly-owned subsidiary	Franchising/Alliance

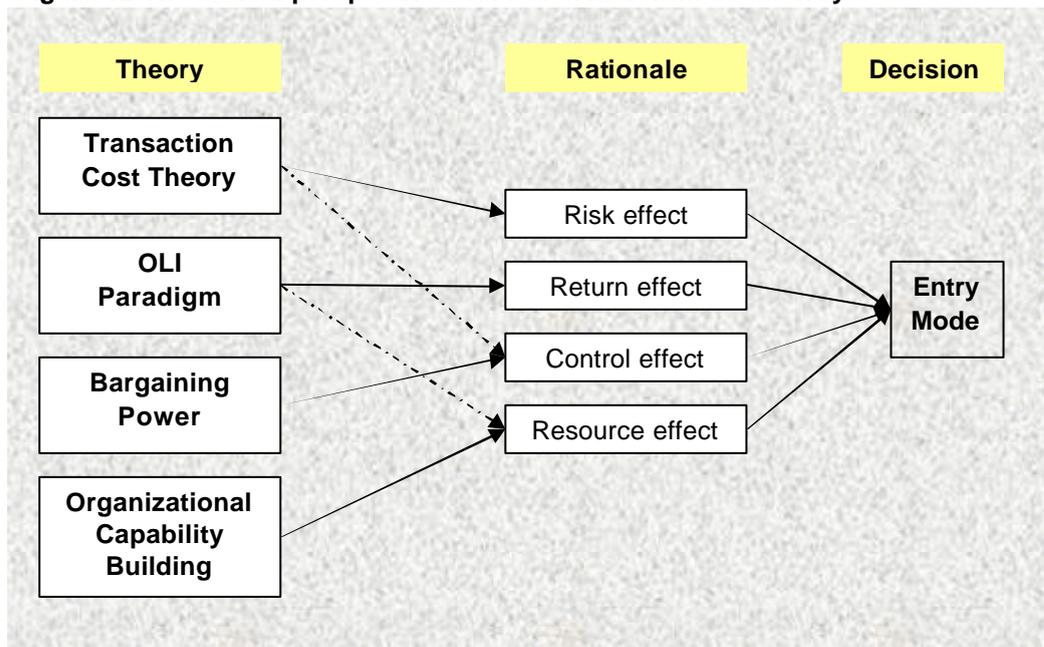
Source: Adapted from (Johansson, 2006)

In a real world case, McDonald's is well known for taking the control strategic posture in its successful global expansion. McDonald's puts great emphasis on controlling a standardized service.

### 2.7.5 Synthesis of Rationale and Theories

Having reviewed the above theoretical perspectives on market entry modes, it seems that they have a construct of relationships among them. The rationale discussed in section 2.7.2 earlier is common between the transaction cost theory, OLI paradigm, bargaining power, and organizational capability building. The relationship is sometimes direct, and so is the resultant entry mode; sometimes the relationship is indirect with a resultant secondary effect. Figure 12 below illustrates a unified framework that brings together determinants of market entry together with theoretical perspectives.

**Figure 12 Theoretical perspectives vs. rationale for mode of entry**



Source: Adapted from (Luo, 2001)

As illustrated above, transaction cost perspective is mainly concerned with different risks in different modes of entry. Entrepreneurs considering entry to an emerging market with high risks must be seeking high returns, while avoiding unaffordable risks. To mitigate risks, entrepreneurs will need a reasonable level of control over their logical and physical assets in the targeted market. In the end, with these two considerations in mind, an entry mode that gives access to local partners with country-specific advantage seems to be selected.

Furthermore, the OLI paradigm is mainly focused on the return side of any mode of entry. The return is directly affected by the entrepreneur's decision on ownership, location, and internalisation advantages. Bargaining power is focused mainly on the control effect of the mode of entry, usually in emerging markets. The organizational capability is focused on the resource effect of entry modes. Entrants will be utilizing existing resources and introducing new resources for the prospective markets.

Collectively, the above theoretical perspectives provide a more informed approach to evaluating and selecting prospective modes of entry. None of the above theories can be sufficient on its own as a basis of informed decision on the mode of entry. This collective synergy entitles them as possible theoretical foundations for exploring the modes of entry.

### **2.7.6 Approaches to Market Entry**

Expansion beyond local markets can be sequential and take a staged approach as well as a learning approach. Expansion can also be non-sequential and take a contingency approach. The staged model of entry suggests a sequential successive entry into foreign markets; with each entry, the franchise entrepreneur deepens his/her commitment to the market in focus (Buckley & Casson, 1998).

The staged entry above is deeply connected with a learning approach. The sequential learning approach suggests an evolutionary build-up of foreign commitments in recognition of the psychic distance from other cultures and markets. Initially franchise entrepreneurs would enter regions that are similar to theirs, or geographically close. The more experienced the entrepreneur becomes, the less tied up he/she becomes to the similarities requirement.

Further, the contingency approach for foreign expansion suggests that a firm evaluates and responds to opportunities as they occur, regardless of the geographical or cultural distance. Advocates of this approach (Cuervo-Cazurra, 2004; Okoroafo, 1990) posit that the decision to leapfrog cultural and geographical distance is related to factors internal to the firms as well as factors related to the opportunity itself. It depends on the franchise entrepreneur's ability to manage cultural diversities and complexities and the level resources that can be employed across various markets and regions.

## 2.8 Summary

This chapter has explored the literature covering the entrepreneurial modes of entry to a market including franchising, licensing, joint ventures, as well as wholly-owned subsidiaries. The research revealed a big gap in literature on the mode of entry to markets similar to that of Saudi Arabia with regards to cultural, political and legal factors. Franchise entrepreneurship in particular is an area that has been little investigated.

The research revealed interesting prospects, barriers and appropriate modes of entry into emerging markets, such as that of the Kingdom of Saudi Arabia. Overall the literature indicates that the Saudi fast food market is very lucrative. However, there are

many barriers in terms of the quality of operation as well as intellectual property protection.

In markets sharing the typical political instability of developing countries, the best mode of entry for franchisors would be through joint ventures, especially when the entrepreneur's exposure to the culture of the targeted market is limited. The more control franchise entrepreneurs need the more they are advised to adopt wholly-owned subsidiaries. The more control, however, the more resources entrepreneurs need to commit.

## **3 Methodology**

### **3.1 Introduction**

This chapter describes the research methodology followed by the researcher in conducting this research. It discloses the research approach and identifies the sample of respondents. The research design according to Yin (2003) provides for the logic that links the targeted data and the resulting conclusions. That's why the author started this research with a central research question; then in the research methodology the author elaborated on the major research questions which will together lead to the research conclusions. This chapter first examines the research approach, then the data collection method, research questions, and propositions.

### **3.2 The Research Approach**

The dominant methodological approach of this research is qualitative. Being qualitative, according to Creswell (2003), it must be "fundamentally interpretive" in nature. That is to say, the data collected would be interpreted from the author's perspective. However, this is not to say that a positivistic approach will not be considered. In fact, some quantitative approach is considered; this is especially true when dealing with statistical data collected from company information and public databases. Historical data are used to analyse the frequencies of the mode of entries followed by franchise entrepreneurs, for example, with due attention to barrier variables; then the trends are analysed as to the most popular form of mode of entry. Ultimately, the research project is characterized by a mixed approach, predominantly qualitative.

In this approach, the author is not seeking to find any frequency when collecting data.

Qualitative methods have been defined 'an array of interpretive techniques which seek

to describe, decode, translate, and otherwise come to terms with the meaning, not the frequency, of certain more or less naturally occurring phenomena in the social world' (Maanen, 1983)

Through the above methodology, the fast food industry is in the focus of the research. The reason the author has selected this industry is that fast food is so popular in franchising to the extent that it becomes closely connected to franchising itself. Hence, a research in fast food franchising is to a great extent well-representative of the whole franchising industry. This research is from the perspectives of the participants of this research who are actively involved in the field of fast food entrepreneurial market entry, franchising, and consulting. It is not based on a customer point of view.

However, in a qualitative approach, bias will be unavoidable. The author may be unwittingly influenced towards his own point of view and be looking through his own glasses when collecting the data. Involuntary interaction with the item in focus cannot be helped. Further, in terms of the reality of things, this research will be looking for what the author believes is reality. There will be no absolute reality in the domain (Collis & Hussey, 2003). What makes the methodology even more restricted is the fact that the author will be looking in a context-bound and specific place and type of business.

### **3.3 Data Collection**

#### **3.3.1 The Challenge**

Many challenges were met in conducting the research. The research into the Saudi market poses a unique difficulty to the marketer. It is not easy to collect primary data.

The majority of local companies in the Kingdom do not have marketing departments,

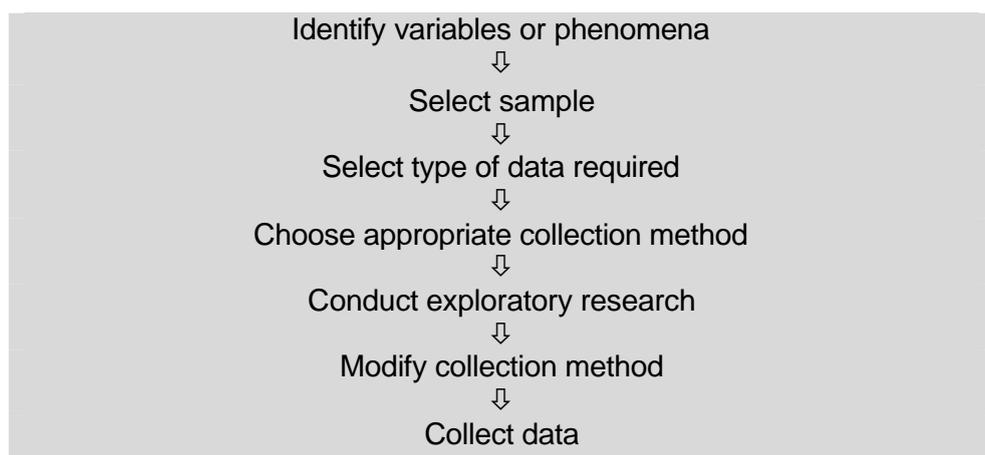
the primary way to conduct marketing research, nor do they have R&D sections (Tuncalp, 1988). Also, there are very limited professional research companies in the market. Research is *not* a typical part of the business in the Kingdom.

Further, the barriers to conducting research are based in the culture and language. By their very private and reserved nature, Saudis are reluctant to participate in survey research or personal interviews. Their independent and free nature (Tuncalp, 1988) prevents them from answering a barrage of questions thrown at them. Furthermore, the tendency of Saudis to go for face-to-face relationships poses a great challenge to conducting a telephone interview.

### 3.3.2 The Process

In collecting the data, the author is mainly guided by a formal process established in business research by Collis & Hussey (2003). Exploratory research was done at an early stage before starting the process of primary data collection.

Figure 13 Overview of the data collection process



*Source: adapted from (Collis & Hussey, 2003)*

Data collection follows a systematic process based on in-depth interviews in the sequence that follows.

### **3.3.2.1 Variables Identification**

The research variables were decided at an early stage of the research, covering market prospects, barriers, and modes of entry. The following variables are in focus during the data collection process:

- Cultural Factors
  - Attitude to copycatting
  - Passive Management
- Legal Factors
  - Franchise Law
  - IP protection effectiveness
- Quality Factors
  - Availability of local quality material sources
  - Availability of qualified local human resources
  - Accessibility to qualified overseas human resources
  - Saudization
  - Concern about consistency in operations quality control

### **3.3.2.2 Selecting Sample**

Due to the limited size of the population, the author used stratified sampling where the strata of chief executive officers of fast food franchise entrepreneur companies were selected (Collis & Hussey, 2003). The targeted sample was selected among the fast food executives currently involved in the Kingdom. They were identified by type and name of company, and positions most likely to provide the required feedback.

The sample is big enough to cover the market, and representative of the market. The population includes four categories of companies which represent the major stakeholders of the franchising field in that area. It includes most of the people involved in fast food franchising in Saudi Arabia.

- A. Western global franchising companies already in targeted market; see Appendix 10.5.
- B. Local established franchisors, such as Kudu, and Taza.
- C. Local entrepreneurs considering franchising, such as Albaik.
- D. International franchising consultants who played a part in franchise development in the Saudi market, such as iFranchise, and Francorp.

The sample has covered executives in the above companies. At least one chief executive officer (CEO) or regional operations officer (COO) has participated in each type of the companies above. The sample includes five executives from different companies. These senior management positions are the ones presumably in charge of deciding/recommending the expansion strategy and the mode of entry. There might be some variations as to the title of those interviewed. The deciding factor remains tied to those vested with the authority to decide or recommend expansion strategies.

### **3.3.2.3 *Designing Questions***

A carefully structured questionnaire with open-ended questions was designed and appears in Appendix 2: Questions of Research. Open-ended questions lend themselves more to interviews than to large-scale surveys. Probes and prompts were included to facilitate response. The Questionnaire was sent in advance of the interview in order to ensure that each respondent would understand the questions in exactly the same way as every other respondent.

As presentation can do much in facilitating the questionnaire (Collis & Hussey, 2003), special care was taken to present the questions in a way that encouraged

readers to understand and respond to the questions. The purpose of the questionnaire was clear in the covering letter attached.

#### **3.3.2.4 *Piloting Questions***

It is essential in research literature to pilot or test questions as fully as possible before distribution (Collis & Hussey, 2003). This guidance was applied to the extent possible. Before questions were given to the actual respondents in the field, the questions were tested to validate content, assure clarity and improve format. Different academic levels participated in the testing and playing the role of respondents. A university professor in globalisation, a second university lecturer in marketing, a university research specialist, a university research technologist, two students and a franchise business practitioner, all took part in piloting the questions. All of these parties looked at the questions from different angles and provided constructive feedback.

#### **3.3.2.5 *Contacts***

Names and contact details of the sample were collected from public sources, as well as by personal connections.

#### **3.3.2.6 *Introductory Call***

An introductory phone call was made to expected participants to introduce the research and confirm their willingness to participate.

#### **3.3.2.7 *Dispatch***

The questionnaire was sent with a personalized introductory letter carrying Unitec logo by courier to the chosen sample, as appears in Appendix-1: Information Sheet

to Respondents. The researcher's contact details, as well as those of the research supervisor, were given to respondents in case any clarification was required.

### **3.3.2.8 Follow-up**

In a couple of weeks after dispatch, a follow-up phone call was made to confirm receipt of the questionnaire, and to specify the date and timing of the interview.

### **3.3.2.9 Interview**

On the date and time agreed a voice-to-voice interview between 20-40 minutes was conducted. This interview followed exactly the questions stated in the questionnaire in their own sequence. The interview was taped for later transcription. Some respondents showed more interest and hence generated more data, others were rather conservative.

### **3.3.2.10 Transcription & Referencing**

The taped interview was transcribed by the author in a text-file format; each interview in a separate document. Records were properly referenced at the time of collection and transcription showing who was involved, when, and the context.

### **3.3.2.11 Data Entry**

The collected data were entered into N6, as transcribed and referenced, in preparation for data analysis.

### **3.3.2.12 Codification**

The data entered in N6 were categorized into nodes according to their relationship to the research variables. Content-coding was used in N6. Codes might also be grouped into smaller categories according to their patterns. Together with the

author's own coding, two other coders were used to ensure an optimal interrater reliability and validity.

### **3.3.2.13 Analysis**

The data collected from the interviews were analysed using informal analysis methods such as repetitive or patterned behaviours. Node search in N6 was used. For the voluminous data received, scaling was also used to reduce the size of data. The data collection and analysis were guided by the research questions discussed earlier.

### **3.3.2.14 Summation**

Finally, summaries were written about the findings, and deficiencies highlighted. Areas for further research were considered.

## **3.4 Research Questions**

The interviews, together with the exploratory research done, would contribute to bring some answers to the following questions:

- 1) **Prospects:** What are the expansion prospects for franchise entrepreneurs in the Saudi market after joining the WTO?
- 2) **Barriers:** What are the quality and intellectual property barriers to entry for franchise entrepreneurs into the Saudi market, and by implication to other similar markets?
- 3) **Mode of Entry:** How effective are the existing entry strategies followed by global franchise companies and entrepreneurs for expansion in such markets?

- 4) **Recommended Entry:** What type of strategic alliance might meet the expansion and IP protection requirements of franchisors in the light of the above?

### 3.5 Propositions

In conducting this research, propositions have been used to facilitate the research process. As the research has an exploratory nature and is not meant to produce any generalization or grounded theory, it is proposition-driven rather than hypothesis-based. The following propositions are in mind when conducting this research.

P1: Modes of entry that yield more control are more suitable for highly-proprietary products or processes.

P2: High control modes of entry are for unstructured, poorly understood products or processes.

P3: Joint ventures modes of entry are more suitable for politically and/or legally unstable markets.

P4: Lucrative markets are targets for franchise entrepreneurs

### 3.6 Summary

Based predominantly on a qualitative approach a case study approach was conducted on the Kingdom of Saudi Arabia. The purpose of the research was to explore the prospects of the fast food market, barriers to market entry as well as modes of market entry. Over-the-phone interviews were conducted with open-ended questions on prospects, barriers and modes of entry.

The interview questions were sent in advance to respondents, with an introductory letter, to help them prepare for the interview. All interviews were digitally tape-recorded, and then transcribed. The collection of data was then analysed for central themes using QSR software. In the following chapter the results of the analysis are described in details.

## 4 Results

### 4.1 Introduction

In this chapter the author shows the results of the research conducted. The qualitative interviews contained interesting results. Some of them fully agree with the literature, others differ to some extent or another. Use of predefined questions allowed the researcher to investigate several central themes. This chapter explores the most significant findings as related to the main [research question](#). Central themes are taken from transcriptions of the interviews and discussed in this section. This chapter starts with the demographics of the participants, the research challenge, and examines the central themes.

### 4.2 Demographics of the Participants

As mentioned earlier, this research targeted fast food executives in the Kingdom of Saudi Arabia. There were five companies representing different positions. All of the companies had been in business for about 20 years. All respondents have a Western tertiary educational background. All respondents were senior executives and decision makers in their companies.

One company is a well established fast food entrepreneur with 40 outlets focused in one territorial region of the country. It has well prepared itself for franchising in other regions of the country as well as other neighbouring countries. The other company is a well known entrepreneur who has successfully franchised its fast food business around the whole country, other neighbouring countries as well as some Western countries. It runs about 120 stores. The third company is a well established master franchisee for a Western brand. It runs about 200 restaurants in the region. The fourth and fifth

companies are local and Western consultants experienced in developing franchise systems in the targeted market.

### 4.3 Research Challenges

As anticipated at an earlier stage, there was great difficulty in collecting the data from respondents. Several calls and follow ups had to be done. Few people were willing to participate in the research. There was great difficulty in contacting the sample of executives and collecting the data. Several phone calls at different times attempted to get hold of the executive concerned. For some executives, several voice messages were left on their telecommunication system. Even mobile messages were used to boost the already-completed emails and phone messages. Very few of them showed interest in responding to early emails. Some kept procrastinating on the possible day of the interview.

When it comes to timing the interview, the other challenge related to the different time zones between New Zealand and the targeted country. The convenient time for some executives used to be the after-noon according to their timeline; however, it was 2 o'clock in the morning New Zealand time. New Zealand is about 10 hours ahead of the executives in the Middle East; and about 16 hours ahead of the franchise consultants in Pennsylvania.

Non-availability of executives who are on the move was a major challenge. Many of the executives were caught either in a very busy period, or simply flying outside their own territories. So, the researcher had to wait for the convenient time when the respondent was back. That lapse in time sometimes reached two weeks.

Further challenges were due to bad communication lines. The default way of communication was through the standard telephone lines. Some of the respondents suggested an online method of communication, like Skype. In recording interviews over standard telephone lines, there was a problem of noise that made transcriptions sometimes a challenging job. On online communication sometimes there was a problem of line interruptions even over broadband Internet. Professional services sometimes have to be used to filter the noise and render transcriptions.

All the above challenges were overcome in the end and the desired results achieved; sufficient response was received from the sample chosen, despite all mentioned difficulties. The response rate was satisfactory. Almost all fast food entrepreneur franchisors were communicated, in addition to one established master franchisee for the region. Some were able to provide generous time of 45 minutes, others 20-30 minutes of direct-subject interview.

On another development, there was great difficulty in collecting secondary data. Some subscription-based data-bases were consulted, like GMID; however, on validating the results with reality, it turned out that the secondary data collected were not very accurate. The US Chamber of Commerce provided some detailed accurate information on the market and the country.

## **4.4 Central Themes**

### **4.4.1 Perceptions on the Market Prospects**

All participants without fail agreed that the fast food Saudi Market is very lucrative and will be so for the coming few years. It has great potential for franchise market entry. The newly entered membership with the World Trade Organization is expected

to improve the chances of the market to attract more entrepreneurs or multinational companies.

The fast food Saudi market is confirmed to be the largest consumer market in the whole area of the Middle East; there is no similar market even in any other GCC country, Egypt, Jordan, Syria, or elsewhere in the area. For Western franchises, competition was agreed to be very fierce, especially by local brands.

What makes the kingdom more attractive to prospective franchisors is the fact that it has started to discuss and draft its own laws and regulations on franchising. Many meetings between the governmental bodies and business people have started to take place, in addition to surveys on various franchise issues. Existing franchise entrepreneurs have started to consider franchise as a possible mode of entry in the near future.

#### **4.4.2 Quality Barriers in Market Entry**

Different perceptions were received on various barriers to quality control in market entry.

##### **4.4.2.1 Enforced Saudization**

All interviewees believed Saudization is an imperative duty that they cannot do without. Some believed Saudization hampers quality in the way of high turnover among Saudis. Saudization, however, is believed to hamper quality in terms of high turnover of staff after costly training. An extremely high percentage of Saudis would start the job, take training, and then leave the job for one reason or another. For fast food entrepreneurs, consistency in quality is imperative. Hence consistent inflow of well-trained staff is a must to maintain the required level of consistency in quality.

It seems that there is an attitude of understanding of Saudization among participants. It is believed that enforced Saudization is a measure by the government to ensure more Saudis are capable and willing to do the job. Rather than thinking of ways to avoid Saudization, interviewees were thinking of better ways to handle Saudis to improve their retention. For example, as part of their commitment to make Saudization a success, some interviewees have established a selection system whereby only those Saudis committed to learning and growth are hired. Pre-existing know-how was not a problem for interviewees and was not considered a factor that would hamper the provision of final operational quality.

#### **4.4.2.2 Human resource recruitment**

All respondents agreed that operational quality is a key part of the fast food business. Employees need to have specialist know-how in order to deliver quality. That specialist know-how is not readily available locally. Participant fast food entrepreneurs, franchise entrepreneurs and consultants agreed that recruitment of human resources from overseas is difficult, and would continue to be so for the coming few years. That is why existing entrepreneurs have to go to local sources for recruitment, as a de facto rule. Entrepreneurs would then commit themselves to the training and development of the local recruits, whenever required.

However, by comparison, Western franchisors have reported no difficulty in recruiting the required staff from overseas. It seems they have a wider network of contacts and suppliers, inside and outside the Kingdom that allows them to replenish any shortage in workforce.

#### **4.4.2.3 Quality Supplies & Suppliers**

All participants agreed that quality sources of supplies are critical to their operations. Franchise entrepreneurs did not report facing any major problem or barrier in getting quality supplies from local or overseas suppliers. So their operational quality is not hampered by the lack of proper supplies or suppliers.

On the other hand, Western franchisors reported some problems in finding the required reliable local suppliers, and hence relied on their brand's already established network of Western and/or local suppliers to do the job.

There were no legal barriers to Interviewees importing or getting quality materials from overseas, and/or contracting consultants or suppliers from the West.

#### **4.4.2.4 Control requirement**

Participants agreed that control is an essential part of their target of QSCV (quality, service, cleanliness and value) in a fast food franchise. Respondents also believe any sort of franchising will fulfil the purpose of control. The control mechanism implied in franchising is fair enough to satisfy franchise entrepreneurs. However, the intrinsic need to control was not considered as a barrier to implementing quality; neither was it so strong to warrant an exclusively WOS mode of entry.

For entrepreneurs who are yet to apply the franchise system, control over quality can be achieved through critical selection of the other partner. For them reputable family entrepreneurs can better take care of the franchise business and sustain its quality requirements.

### 4.4.3 Applied Measures for Operation Quality Control

Some participants believe that the more geographically extended they are, the less control they tend to have over the quality of operation. The closer outlets are to the owners, the more control can be exercised over quality. The reason behind that lies in the principle that hired employees can never offer the same level of commitment to quality as the owners themselves.

Where geographical expansion becomes imperative, the major strategy to protect against any compromise between quality and expansion is to select partners who can assume a sense of ownership of the brand similar to that of the brand owners. And later on, to manage the relationship with partners in a way that sustains that sense of ownership. To protect quality, entrepreneurs need to extend slowly and test the ground as they go further.

With the above measure in place, entrepreneurs have also to keep their traditional quality audit system active. Western franchisors are expected to make several visits to the Kingdom to keep a direct eye on the quality of operation. While a strict audit system is in place, however, entrepreneurs have to make sure that franchisees are getting reasonable profit from the business. Strict quality cannot be practised at the expense of profits.

Some participants reiterated the importance of using the concept of mystery shoppers. Western franchisors confirmed using local companies to perform mystery shopping, where close monitoring is exercised from a customer's point of view. Regular financial and operational reports, in addition to those of mystery shopping, are vital to maintain the required quality level.

## **4.4.4 Intellectual Property Barriers in Market Entry**

### **4.4.4.1 Limitations of Local Regulations**

Lack of franchising regulations was confirmed to have a very significant impact on market entry. There is no well-defined role of the franchisee in the law. That deficiency constitutes the most deterring factor to entry through franchising. This gap in the local law is very significant to the extent that some entrepreneurs have just to disregard franchising as a possibility in the Kingdom.

However, it was agreed that since the time the Kingdom joined the Madrid Protocol (in 2003), protection of intellectual property started to be stronger. As far as the protection of trademarks is concerned, currently the Kingdom is confirmed to have a very strong ethic against infringements. Strong government support is in place to protect trademarks and remove any possible infringement.

The intellectual property weakness that still exists relates to the protection of trade dress of fast food operators. It is not easy to protect against infringement of the business's distinctive trade dress, colours, uniforms, or internal decorations. Lots of infringements happen in that area. The risk in this loophole, as one participant confirmed, is that customers would recognize the business by its distinctive colours, before they read its name; it would be confusing to customers to find a different name on 'familiar' colours.

As regards the fear that an entrepreneur might be creating his/her own competitor, no case was reported to have happened. Hence, the legal system of protection against IP infringement cannot be tested in this field. However, there is business confidence among respondents that this is unlikely to happen.

When it comes to the possibility of expropriation by influential people, all respondents agreed that this is currently considered to be a thing of the past. Presently, no one dare to forcefully put hands on a successful business. On the contrary, it was confirmed that there is a current trend of strong support by influential parties in the Kingdom for the success of lucrative entrepreneurial businesses. More and more governmental bodies are trying to cooperate with business, rather than work against it.

#### **4.4.5 Applied Measures in Intellectual Property Protection**

All respondents agreed that an entrepreneur needs to put several measures in place to protect the business intellectual properties. These measures may include all or some of the following:

- Technological protection of the know-how, where data or knowledge are codified against illegal access.
- Stringent binding contracts with partners or franchisees,
- Regional or international intellectual property watchdogs, where any infringement case is immediately reported and corrected,
- Keeping the know-how on the side of the IP owner in case of joint venturing,
- Careful selection process of only trustworthy franchisees or partners from the start,
- Licensing different components to different parties, at worst cases when the trust level is low,
- Seeking expansion only in countries which have joined WTO, and signed its IP protection agreements,
- Creation of high scale awareness of the brand through promotion and public relations programs.

Among the above, *careful selection* of the partner or franchisee, in particular, is claimed as the most important measure to protect against IP infringements. Building a high profile and `scale presence in the market was also stressed as a big deterrent against possible infringements. All participants agreed that when the entrepreneurial business has a big scale, and much public awareness, it becomes difficult to infringe or imitate. No participant thought it might be possible for any one to infringe on big names international names such as McDonald's, Burger King, or even well-recognized local names such as Al-Tazaj and Kudu.

#### **4.4.6 Preferred Modes of Entry**

The interviews disclosed a new trend in entering the Saudi market. *New alliances* are being formed between major franchisors and investment companies to take control of the operations in the Kingdom, taking the form of joint ventures. These alliances are believed to enhance the position of the operating companies to meet the fierce competition in the Kingdom.

Some Western franchise operations are trying to *consolidate* their operations in the Kingdom under one umbrella. Existing single and multi-unit franchise operators are now being driven under one regional management that already has local outstanding experience in the fast food market. This means that the concerned Western franchisor has to deal with a fewer number of franchisees or master franchisees in the area.

When it comes to evaluating the preferred mode of entry that has less barriers and more control, there is a shift in opinion. Local franchise entrepreneurs who are already in the market claimed no problem in providing the traditional single unit franchise system to either owner/operator or owner/passive manager operator.

### Results

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On the other hand, entrepreneurs who are yet to apply the franchise system, as well as franchise consultants, are strongly opposed to the format of owner/operator or single unit franchise of any type. Opponents of the single-unit franchise system showed strong support for the importance of an owner/operator concept, where the owner is involved in day-to-day operation. The reason stated was simply related to the lack of a locally accepted legal definition of the franchise system. It was agreed that this approach will extend at least into the near future, until franchise laws are well-established in the Kingdom. Some failure cases were reported of single-unit franchise operations in fast food.

Such entrepreneurs would only go for joint ventures with well-established family businesses who have already built high reputations with non-fast food franchise systems. Such partners are expected to respect their family reputation and franchise commitment and hence stick to the quality of operations; they will be able to handle area development successfully.

Further, new Western entrants into the fast food market are using joint ventures to market their business. It was confirmed that the preferred mode of entry for American franchisors is through a master franchise agreement. However, there was a warning against 'overuse' of the master franchise agreement, where franchisors do not get involved in one way or another with WOS inside the franchised territories.

All respondents confirmed the need for an entrepreneur to keep his/her own outlets in the same territory of other franchisees or joint venture partners. The importance of this lies in the fact that it allows the entrepreneur to have first-hand experience of the market.

Results

Licensing did not have any consideration for fast food operation. This is due to the lack of control factor in it. However, licensing was agreed as a possible component for the commissary part of the fast food business.

Below is a summary of the barriers as related to the mode of entry.

**Table 4 Effects of different barriers in different modes of entry**

		Modes of Entry			
		WOS	Joint Venture	Franchising	Licensing
<b>Quality Barriers</b>	Saudization	Accepted & Manageable barrier			
	HR Overseas Recruitment	Recognized barrier	No barrier*	No barrier*	No barrier
	Access to Quality supplies	No barrier	No barrier	Manageable barrier	No barrier
	Access to Reliable Suppliers	No barrier	No barrier	Manageable barrier	No barrier
	Direct Control Requirement	Manageable barrier	Manageable barrier	No barrier	No barrier
<b>Legal Barriers</b>	Limited IP Protection	Manageable barrier	No barrier	No barrier	No barrier
	Limited Franchise Regulations	Barrier **	No barrier	Manageable barrier	No barrier
	Competitor Creation	No barrier	No barrier	No barrier	No barrier
	Expropriation	No barrier	No barrier	No barrier	No barrier

\* The status shown here is at the starting stage of the business

\*\* Barrier for WOS entrepreneurs to expand via franchising

## 4.5 Summary

The research has provided some valuable insights by fast food executive practitioners on the Saudi market. Several central themes were identified. They included the future prospects of the Saudi fast food market, barriers to entry in terms of quality and intellectual property exposures (such as enforced Saudization, human resource recruitment, access to quality supplies and reliable suppliers, control requirement, limitation of local regulations on IP and franchise), applied measures for quality control, applied measures in IP protection, as well as preferred modes of entry.

It was unanimously agreed that the Saudi market is definitely a lucrative one, and holds great potential for franchise entrepreneurs. Barriers to recognizing optimal quality in operations included enforced Saudization; however, it was reported as manageable. Recruitment of knowledgeable human resources from overseas was recognized as a problem by most participants. Access to quality supplies and reliable suppliers was not considered as a barrier. The need to have direct strict control over quality by the owners was a strong but manageable barrier.

Barriers to protecting intellectual properties were improving and were not unmanageable. They included non-comprehensive regulations on IP protection, in addition to the lack of regulations on franchising. Efforts are now under way to draft franchise legislation, and implement the WTO agreements on intellectual property protection.

Several applied measures to protect quality and intellectual property were reported. Measures to protect quality included a territory-focused approach, careful selection of partners, in addition to traditional audit systems and mystery shoppers. Measures to protect against intellectual property infringement included technological protection of

**Results**

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know-how, concluding stringent contracts with partners, employing IP watchdogs, monopolizing know-how on the side of the IP owners in joint ventures, careful selection of partners, licensing different components of IP among different partners, expansion in WTO member countries, and the creation of high scale public awareness of the brand.

## **5 Discussion and Implications**

### **5.1 Introduction**

This chapter discusses the results of the research. The discussion highlights key issues found in the results as well as the literature with an effort to provide some response to the research question. It examines the present prospects of the Saudi fast food market, the barriers that stand before fast food entrepreneurs in entering the market, and the possible modes of entry into such market. It is of special interest to see how different franchise entrepreneurs are charting their own way of entry or expansion within the local market. Finally, this chapter examines further implications, and direction for future research.

### **5.2 Prospects of Fast Food Market**

The findings of this research are in great agreement with those of the literature review. Both literature and primary data agree that the Saudi fast food has great prospects at least in the coming few years. Empirical results show that the Saudi fast food market is not only prospering but also constitutes the largest fast food market not only in the GCC countries but also in the whole Middle East.

Although the research confirms the lack of franchise regulations in the Kingdom, it shows some steps are being taken by the government to put new franchise regulations in place. These regulatory steps are typical of countries which have recently joined the WTO. It gives more hope to prospective franchise entrepreneurs and overseas franchisors to get into the Kingdom through their own preferred mode of franchising.

This agreement between the literature and research findings carries several implications for entrepreneurs. With these confirmations in place, together with the new membership of the WTO, the Kingdom is expected to attract more entrants/investors, and franchise entrepreneurs will be actively searching for reliable and effective modes of entry into that market.

However, the primary implication is for local Saudi fast food entrepreneurs. The market is encouraging fast food entrepreneurs to come and invest in a region where risks are manageable. That market will constitute the grounds for further expansion not only in the Saudi territories, but also in the neighbouring similar markets. Other beneficiaries of this booming market would include Western franchisors and/or entrepreneurs. A considerable number of Western fast food franchisors are already in the market with hundreds of stores all over the kingdom.

### **5.3 Barriers in Balance**

The optimistic findings on the prospects of the Saudi fast food market lead us to the next stage in the entrepreneur's journey to entering the market, the barriers to be encountered. Commonly speaking, so long as the barriers are surmountable and do not preclude investment from attaining a positive net present value, entrepreneurs will spearhead their way into a sustainable business. Below, the impact of the results is explored in terms of operational quality and intellectual properties.

### **5.3.1 Commitment to Quality**

#### **5.3.1.1 Saudization**

Participant entrepreneurs agreed with the fact that quality was of prime importance to operation. Enforced Saudization, where the government enforces the employment of a fixed ratio of Saudis, was confirmed as a challenge, in terms of staff calibre and retention. However, the drivers for quality were stronger. Although entrepreneurs were ruthless in upholding quality, they were ready to invest in Saudization and accept its challenges.

Entrepreneurs knew that the benefits of Saudization were more national than corporate in nature. It seemed they had to put highly-alert contingency plans in place to sustain the required level of workforce to meet the requirements of consistent quality. Such contingency plans are driven mainly to cover the high turnover rate of Saudis. This might include maintaining a level of overstaffing and continual training of new staff.

Saudization was accepted as part of the entrepreneur being a “good citizen”. When accepting the challenges of Saudization, entrepreneurs believed they were exercising their social responsibility in developing the technical capabilities and work ethics of the Saudi workforce. No matter what, commitment towards the quality of operations was not jeopardized.

#### **5.3.1.2 Overseas Recruitment**

Recruitment, on the other hand, has posed a challenge for entrepreneurs. There was an agreement between the literature and the current state of recruitment. The reported difficulty in mobilizing manpower from overseas was not insurmountable.

The local market provided a rich source of casual and permanent hires other than Saudis. Commitment to quality was not jeopardized by the lack of qualified overseas resources.

Under the circumstances of difficult overseas recruitment, to sustain their commitment to quality, entrepreneurs accepted the challenge of hiring candidates with little knowledge about the operation. However, an intensive rehabilitation program was applied on local market hires through training and development so as not to jeopardise quality. Although this process seemed to be costly, it was rewarding in the end in terms of the high retention rate among non-Saudi local hires.

### **5.3.1.3 Quality Supplies & Reliable Suppliers**

On another development, all participants confirmed the importance of quality supplies to the quality of operations. However, there was varying agreement on the availability of quality supplies and reliable suppliers in the local market. While some participants confirmed the availability of all kinds of required quality sources locally, others, including established Western franchisors, reiterated their continued reliance on overseas sources of supplies and suppliers.

This situation may imply that the availability of quality sources is dependent on the perspective specifications of the business. Certain Western specifications of supplies are not necessarily available in the local production or warehousing. This variation, being reported by a Western franchisor, justifies the continued dependence on overseas sources by Western franchisors for brand-specified products and specialized overseas suppliers. Otherwise, the country is affluent in quality sources and has no specific limitations on accessing overseas supplies. Besides, there are no restrictions on a Western supplier establishing business in the local market, as the need arises.

#### **5.3.1.4 Control vis-à-vis Communication & Trust**

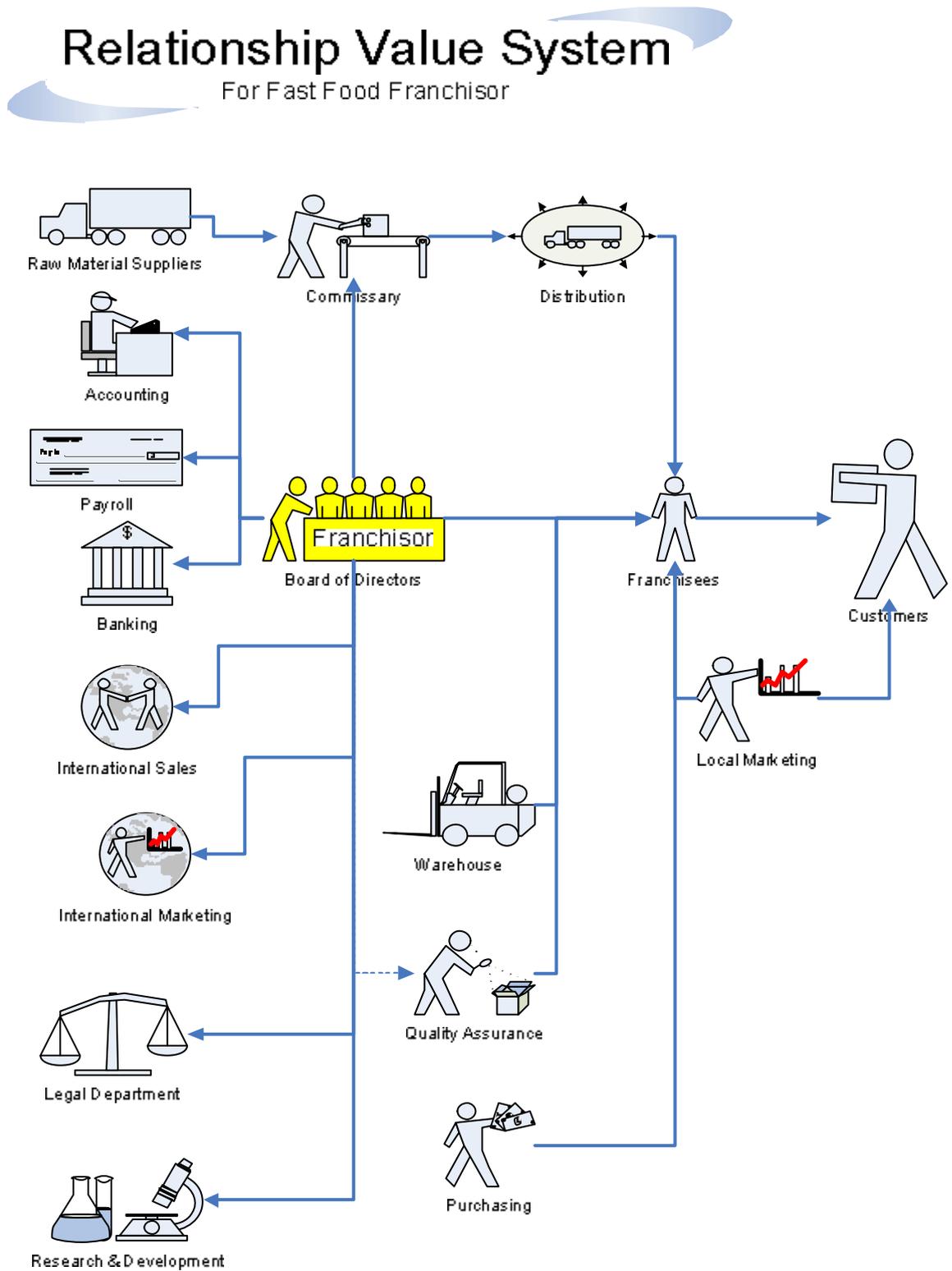
The question of having direct control or not was driven by entrepreneurs' concerns about quality. Growth by WOS may not be feasible due to the ambitious strategic goals of entrepreneurs for rapid and extensive expansion. The limit an entrepreneur can expand on his/her own is much less than that with strategic partners. Hence, with ambitious expansion in mind, it becomes incumbent on entrepreneurs to assign the control of operations to others.

While franchising is very advantageous in having a control mechanism built into it, it may not be sufficient on its own to safeguard the quality. Franchisees may always find a way to turn around the legal restrictions of franchising. Here it becomes incumbent on franchise entrepreneurs, in particular, to engage a vehicle of trust and communication as a replacement for direct control in achieving the desired quality.

Further, the literature regarding the optimal way of committing franchisees to quality in literature agrees with the primary feedback of practitioners. To ensure the commitment of franchisees to quality there should be a strong vehicle of communication and trust in the network. It is the mutual will of every partner to see others succeed in the network that brings the synergic effect on quality.

Furthermore, franchise entrepreneurs can ensure quality not merely by committing their franchisees. Franchisees are only one node of the whole network that needs to be committed to the quality of operation. From the author's perspective, the network of a fast food franchise entrepreneur is huge and may include all the nodes that appear in Figure 14 below.

Figure 14 Relationship network of a fast food franchise entrepreneur



Source: Compiled by the author

To ensure commitment to the quality of the final product, franchise entrepreneurs need to build that commitment in every node throughout the *whole* network through their relationship management program. For example, quality on the franchisee's part will be jeopardised if the commissary, or the distribution partner, fails to show similar commitment. The interdependence between the network nodes prevents the acceptance of inferior work at any node in the network.

Before a system of communication and trust is put into action, franchise entrepreneurs need to pay special attention to the selection process of their future partners. As participants have put it, the best approach to selection may lie in identifying "members of respected family businesses" who are not in direct competition with them. Such prospective future partners already have a record of commitment and success that would support a sustained level of quality.

The importance of hiring the right future franchisees or partners is even boosted with the participants' declaration that "hired staff cannot be concerned about the business as much as the owners themselves". This blatant fact drives entrepreneurs to look for partners who can be as committed as the owners themselves. The more committed partners are the less demanding will the audit system be.

### **5.3.2 Legal Barriers**

Although the lack of franchising regulations in Saudi Arabia had significant impact on the adoption of franchising as a mode of market entry, it did not constitute a major barrier to entry for the research participants. The market included both local and Western franchisors. In addition, the market included joint ventures and master franchise arrangements.

Contrary to what someone would typically expect in the IP protection level in a developing country, the current support extended by the Saudi government for the protection of intellectual properties is very promising. The case is more so especially since the Kingdom has joined the WTO and signed the Madrid Protocols on intellectual property protection. The weakness in enforcing intellectual property measures for the protection of the brand's dress and colours seems to be tolerable, with the hope that IPR protection measures are improving.

Contrary to the typical risks in the literature of expropriation, none of the participants agreed that there may be a risk of expropriation. On the contrary, all agreed that the Saudi government is extending full possible support for the success of entrepreneurs. Eliminating such a risk would positively affect the attraction of the market, and make it more promising. All this signifies that the legal barriers are not insurmountable in the Saudi market.

Although the above risks are subdued, entrepreneurs still recognized the need for practical measures of IP protection on their side. The need is still there for technological protection of the know-how, strictly-woven legal contracts, IP watchdogs, owners' custody of trade secrets, expansion in only WTO-member countries, and creating high level brand awareness. All these measures are precautionary in nature, with no direct impact on market penetration.

## **5.4 Market Entry Strategies**

### **5.4.1 Wholly-Owned Subsidiaries**

While some entrepreneurs are doing very well in the Saudi market, they are still confined to WOS as their major mode of entry. As we have seen from the input of

other franchise entrepreneur participants, the barriers are not insurmountable; the risks are manageable. This finding may uncover the fact that such entrepreneurs may not have enough *entrepreneurial orientation* in their approach. To be able to expand more effectively into wider territories, the entrepreneurial orientation is required not only for such entrepreneurs, but also for their would-be franchisees or area developers (Maritz & Nieman, 2006).

To enhance or develop entrepreneurial orientation, franchise entrepreneurs will need to entrench themselves and their franchisees with entrepreneurial training and learning about the related benefits of entrepreneurial orientation. These benefits may include exploiting networking capabilities for the timely mobilization of the required resources (Maritz, 2005). At the start, franchise entrepreneurs may need to consider identifying franchisees who already have entrepreneurial orientation. The main benefit behind franchisees entrepreneurial orientation is to increase the distribution of franchised multiple-outlets.

The existing choice of mode of entry for franchise entrepreneurs who have only WOS seems to be based on their apprehension about the possible dissipation of know-how. This approach is basically sound and is supported by various theories in the literature. However, this approach may only continue to be valid so long as the company holds strategic control posture. In this posture, the company has its own well-established firm-specific advantages; has enough resources to expand; and has a product with definite potential in the target market (Johansson, 2006).

### 5.4.2 Franchising

The market in KSA shows several types of entry modes, including franchising.

However, franchising in its traditional concept of owner/operator franchisees is found

only among local entrepreneurs with locally-originated brands. No Western franchisor or entrepreneur has adopted the single unit franchise concept in its entry to the Saudi market.

This practise is supported by the theoretical foundation laid out in section 2. Local franchise entrepreneurs are familiar with the local culture of the market. They are strong enough to adopt a control strategic posture. Their brand is well publicized to a degree that mitigates any risk of intellectual property infringements.

Alternatively, local franchise entrepreneurs who did not adopt franchising as a way of entry were more risk-sensitive than others. The lack of regulatory franchise definition constituted a major hurdle for them that forced them to take up the wholly-owned subsidiary option. The apprehension of this type of entrepreneurs is worsened by some cases of failure by other brands they were exposed to in the past. Since the apprehension of risk is so high, those entrepreneurs would think only of joint venture for their global expansion beyond WOS. That stands in total agreement with theory, since the joint venture is the closest risk-aversion mode of entry after WOS.

Western franchisors, on the other hand, seemed to focus only on master franchise arrangements and/or joint ventures. Again, this practice can be justified in the theoretical foundation section 2.7 by the psychic distance theory, transaction cost theory, OLI paradigm and normative decision theory. The master franchisee represents the Western franchisor in the local area as far as operations, marketing and training are concerned.

However, it is worth mentioning here that Western franchise entrepreneurs, probably due to geographical distance, tended to 'overuse' master franchise arrangements. In other words, they depended more heavily on the audit system of their master franchisees. The warning here should be in place for fast food entrepreneurs located

in a different part of the world; they need to keep their own audit system strongly established in order to mitigate the risks of operational quality. Meanwhile, they need to observe the relationship perspective, discussed in section 5.3.1.4, by having sufficient communication and trust in place with their local partners.

### 5.4.3 Joint Ventures

The primary data demonstrate that some Western entrepreneurs are forming new alliances in the area and consolidating individual outlets and smaller area developers under one umbrella. In line with Maignan & Lukas (1997), this indicates that fast food entrepreneurs have started to feel the need for less control and resources than that required by the WOS mode (See Figure 7 Key Characteristics of Modal Alternatives, page 42). At the same time, technology risk did not seem to be at its peak in that area; it is just below that level required for WOS (See Figure 8 Modes of entry in relation to resource commitment, risk and control, page 2).

Joint venture entry, if appropriately managed, seems to be adequate in terms of control, resources, and risk mitigation. The Western entrepreneur simply provides the know-how, leaving the actual operation to the joint venture partner. Selecting the option of joint venture also confirms the theoretical need for a local partner to handle the local culture of the market according to the psychic distance theory (See Figure 11: Psychic Distance, page 52), and Luo's recommendations (Luo, 2001).

That mode of entry is valid so long as KSA is considered an emerging market in a developing economy. The recent trend for joint ventures validates the mode KFC selected in the mid 1970s in entering the Saudi fast food market. It is still the least risky, when the wholly-owned subsidiary option is excluded.

## 5.5 Further Implications

This case study is not meant to provide generalizations. While the author is not pretending to give any generalization due to the geographically-limited nature of the case study to the Kingdom of Saudi Arabia, this study may well carry implications for other similar countries and/or markets. The implications may come due to the partial similarity between the country of the case study and other similar countries. The most culturally-close countries to KSA are more likely to be affected by this study. The countries of the Gulf Cooperation Council, GCC, in particular are most close to Saudi Arabia.

Kuwait, United Arab Emirates, Qatar, Bahrain, Oman and Saudi Arabia are very similar in culture and have many legal and political connections among them through the GCC council. The GCC countries have already eliminated tariffs on trade between member nations and established a common external tariff. They have agreed to establish a broader economic union (including a single market and currency) by 2010 ("Gulf Cooperation Council", 2006).

In another development, some of the implications of this study can be carried to other legally-similar countries. Countries that are still in the initial stage of joining the WTO, or countries that are yet to develop their franchise system may be affected by this study. Jordan, Russia and China fall within this category.

## 5.6 Direction for Future Research

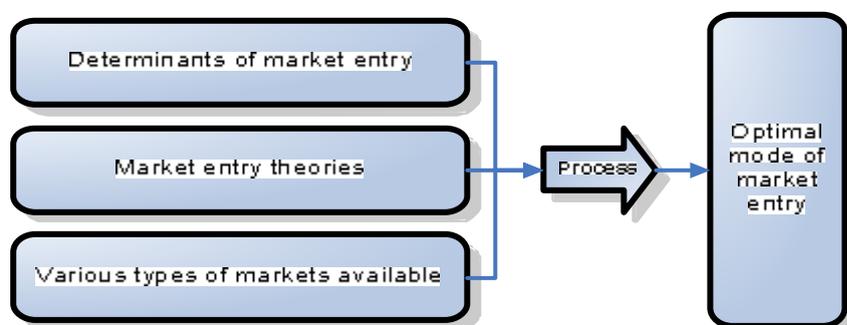
This study has identified a gap in the literature dealing with franchising. Very few articles have examined an optimal formula for applying a specific mode of entry to a specific market. Based on the results of this exploratory research, further research can

possibly identify a formula that takes into consideration all the factors (related to prospects, disincentives, risks and barriers, together with prospective returns), and processes all the input together in order to come up with an informed suggestion on the optimal market entry mode.

This exploratory study has just paved the way for the next expected study on the above formula. Needless to say, further studies would involve a multi-disciplinary project. It involves economic research, political studies, marketing studies, cultural studies, as well as financial studies. The above involvement comes as a natural result of the nature of the market entry determinants. That study needs to be tested in the field, with participation by all global market entrants.

The formula that is expected in the further studies, as shown in Figure 15 below, can be taken further to be supported by a software application that takes all the related variables, processes the information and provides a well-justified mode of entry. Further, to make this study affordable, an adjunct study can be conducted with the purpose of categorizing all existing global markets into specific categories in terms of their impingement on the possible mode of entry.

**Figure 15 Formula for optimal mode of market entry**



Source: Compiled by the author

Such a study would open the global markets wider and faster for global entrepreneurs with interests in those markets. Due to the fast-paced changes taking place in the global area, such a study would require continual subsequent research and update in a bid to reflect the current status of the markets at the time.

## 5.7 Summary

From the above discussion it is clear that the solicited primary data are predominantly in agreement with literature. Some disagreements were also identified. The discussion has covered the market prospects, quality and legal barriers, as well as the modes of entry into an emerging market such as that of KSA.

The position regarding the Saudi market is firmly agreed to be positive. KSA holds a very lucrative market position, and will continue to do so in the coming near future.

None of the barriers discussed are in reality insurmountable. However, entrepreneurs' positions on barriers and risks are often different; and so are their strategic postures. What constitutes a risk for some entrepreneurs is not so for others. Hence, their approach to market entry is accordingly affected.

Due to the nature of the case study, and its intrinsic limitations in terms of geography and industry, no generalisation can be made to apply to other areas or aspects.

Further, as this study is exploratory in nature, no theories or models are drawn from it. Suggestions are made for further studies on an optimal market entry formula.

## 6 Conclusions

With an eye on the research question on the extent franchise entrepreneurs can implement effective expansion strategies in a poorly-protected market such as KSA, this research study provides a rich exploratory insight. The conclusions are multi-dimensional. They cover prospects, barriers and modes of entry.

The first area to explore is the prospects of the targeted market. The importance of this investigation is attributed to the fact that identifying a lucrative market constitutes the basis of entry mode selection. The fast food market in Saudi Arabia is confirmed to be not only lucrative but also the biggest in the whole Middle East region.

Many barriers were identified regarding entering or expanding in the Saudi fast food market. They can be distinguished in two aspects: operational quality barriers as well as legal intellectual property barriers. All the barriers identified were not insurmountable. They have different impact on different types of entrepreneurs. Depending on the perceived barriers, local entrepreneurs would adopt different modes of entry, than Western entrepreneurs.

Some fast food entrepreneurs are presently confined to expansion only through wholly-owned subsidiaries. Such entrepreneurs may need to consider enhancing their entrepreneurial orientation. This entails taking calculated risks in exploiting available opportunities in expanding through some sort of franchise system. Further, to precipitate the benefits of partnering, franchise entrepreneurs need to develop entrepreneurial orientation in their expected franchisees. When entrepreneurs become well established in their brand, and have enough resources for expansion, the most viable option for overseas expansion may lie in franchising or joint ventures. To do that, entrepreneurs need to be adequately skilled in building communication and trust with their partners.

### Recommendations

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Although licensing provides protection from political risks, it offers little help with control over product quality. The best mode to maximize control over quality and protect company-specific advantages is expansion via wholly-owned subsidiaries. However, in overseas expansion, wholly-owned subsidiaries are prone to the maximum political risk. That's where joint ventures come to play a very important part in overseas expansion while mitigating political risks.

## 7 Recommendations

In response to the research question on the extent franchise entrepreneurs can implement effective expansion strategies in a poorly-protected market such as Saudi Arabia, some recommendations may be brought forward. Following the establishment of lucrative market prospects and surmountable barriers, recommendations are made on the modes of entry. Recommendations on the mode of market entry are directed separately to various types of entrepreneurs: local fast food entrepreneur, local fast food franchise entrepreneur, and Western fast food franchise entrepreneur.

Local fast food entrepreneur category includes those entrepreneurs that are expanding only through wholly-owned subsidiaries. Since no exponential growth can be achieved through wholly-owned subsidiaries, within a reasonable time, in order to meet an ambitious growth plan, such entrepreneurs need to consider enhancing their entrepreneurial orientation. They need to address their deficiencies in achieving the desired expansion; such deficiencies may include international management skills, partnering skills, relationships management skills, communications skills, trust building and suppliers commitment. Such entrepreneurs can best expand through wholly-owned subsidiaries in local regions, and joint ventures in remote territories.

Local fast food franchise entrepreneur category includes those entrepreneurs that are expanding mainly through franchising. Franchising is a great vehicle for local expansion. Master franchising and/or joint ventures would be the best vehicle for overseas expansion. However, such franchise entrepreneurs are alerted to the importance of building entrepreneurial orientation in their franchisees so that a franchisee can handle more units effectively at the same time. Further, to ensure smoother operation and stronger commitment to quality, franchise entrepreneurs need to ensure that they invest sufficiently in upgrading their relationship management skills. Success is a pro-rated

### Recommendations

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product of interdependence among the network nodes of franchisor, franchisees and suppliers.

Western fast food franchise entrepreneur category includes those entrepreneurs that are expanding through a master franchise agreement or joint venture with a Western franchisor. As a local partner, Western fast food franchise entrepreneurs are best-equipped to mitigate the risks that would typically face Western franchisors. The only way of market entry for such entrepreneurs is through wholly-owned subsidiaries and/or area development. This way, they can best maximize control over quality and protect franchisor's specific advantages. As the case is with franchise entrepreneurs, to precipitate the benefits of franchising, Western fast food franchise entrepreneurs need to consider improving the entrepreneurship orientation at their own management.

## 8 Limitations

This study is limited in various ways by its industry, choices of modes of entry, and timing. These limitations prevent this study from generalizing. Industry-wise, this study is limited to the fast food industry only within the Kingdom of Saudi Arabia. Such industry is sometimes referred to as “quick service restaurants”. The research investigation does not cover full service restaurants or any other food consumption industry in Saudi Arabia. The fast food industry in question refers to predominantly well-known brand names with heavy local presence in the Kingdom.

In terms of modes of entry, this research has considered only business format franchising and joint ventures as a way of expansion through alliances, as well as wholly-owned subsidiaries. The study does not examine any other modes of entry such as Product & Trade name franchising, cross-licensing, co-marketing, co-promotion, co-production, research consortia, partnerships, horizontal alliances with firms in the same industry, or vertical alliances with organizations in different industries. Licensing agreements are examined only in their providing for the added commissary function of the fast food entrepreneur. However, the commissary is often operated through relationships, rather than as an integrated part of the franchise entrepreneur system.

Further, in terms of timing, the results are likely to be limited to the current era of the Kingdom. It covers the next few years following the Kingdom’s membership with the WTO. Further in time, with the current fast-paced global changes, the currently valid factors in the Saudi market may change, hence the results of this research may change accordingly.

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## 10 Appendices

### 10.1 Appendix-1: Information Sheet to Respondents



#### Covering Letter

Dear ...:

I am pursuing an academic research study at Unitec New Zealand on international business. Saudi Arabia has been selected as a case study following its recent membership with WTO. The area in focus is fast food franchising as a mode of entry into the Saudi market.

Your organization is a distinguished player in the market. Your valuable feedback is solicited to accomplish this study. The research question I am trying to explore is **“To what extent can franchise entrepreneurs profitably implement expansion strategies in a market that has limited franchise regulations and only limited enforcement of intellectual property rights?”** This study will illuminate strategies to penetrate the Saudi market with minimal exposure to intellectual properties or quality standards.

The research is done as part of a 90-credit thesis to meet the requirement of a master of business degree. It is being supervised by Prof. Howard Frederick. It has already been approved by Unitec Research Ethics Committee from 1, March 2006 until 28 February, 2007. Prof. Frederick can be reached at +64.9.815.4321, Ext 7016 or by email [hfrederick@unitec.ac.nz](mailto:hfrederick@unitec.ac.nz).

Attached is a list of 6 open-ended questions. I will be calling your office shortly to arrange some convenient time to get your input on these questions. The phone interview would take approx. 15-20 minutes. The data will be taped and aggregated into a master data set which has no names attached to it; your opinion and comments will be completely confidential. The interview implies your consent to the research.

Your contribution to the success of this research is highly appreciated.

Best regards

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## 10.2 Appendix 2: Questions of Research

**Note: All responses are confidential, and neither the individual nor work organization will be identified in any report or release.**

### 10.2.1 General

Company:  
Name:  
Position:  
Location:  
Response Date:  
Years in Business:

### 10.2.2 Business Prospects in Saudi Arabia

This first question has to do with the prospects for fast food business over the next five years. As you may know, Saudi Arabia:

- v is an oil-rich country
- v has joined the World Trade Organization (WTO) last December
- v has a strategic location in the Middle East
- v has a diversified culture of about 190 nations
- v has 60 percent of the population under the age of 16
- v is loosening restriction on foreign ownership,
- v has no restriction on profit repatriation
- v is a tax haven for many investors

**How lucrative do you believe the Saudi fast food market will be during the coming five years, compared to other neighbouring markets?**

### 10.2.3 Quality Barriers to Market Entry

The Kingdom has recently taken serious steps to open its economy. However, some barriers to foreign investments in fast food still continue to be there, especially as related to the quality of operation. Barriers that might directly affect quality may include:

- v Enforced Saudization
- v Difficulty in recruiting the required human resources
- v Difficulty in finding reliable local suppliers, subcontractors or consultants
- v Difficulty in accessing consistent quality raw material
- v The high level of quality control required to be practiced *directly* by the company over its operations

Problems in achieving the desired performance standards in the Saudi environment

**In terms of the quality of operations, what kind of barriers do you think there are today for fast food businesses to entering or expanding in the Saudi market?**

### 10.2.4 IP Barriers to Market Entry

Protection of the company's intellectual property (IP), such as brand name, know-how, and trade secrets, is a main concern before expansion. Barriers that might directly affect the protection of the company's intellectual property may include:

- v Incomprehensive legislation of IP
- v Weak enforcement of intellectual property rights in the Kingdom
- v Lack of local franchise regulations in the Kingdom
- v The requirement for local settlement of legal disputes
- v Copycat-friendly culture that may infringe on IPR
- v The other partner becoming a future competitor

- v Expropriation of the business by local influential parties

**In terms of IP protection, what kind of barriers do you think there are today for fast food businesses to entering or expanding in the Saudi market?**

### 10.2.5 Mode of Market Entry

Before fast food entrepreneurs go into a market they consider the alternatives available to them for entering that market. The mode of entry, or expansion strategy, to a particular market might include:

- v Company wholly-owned subsidiaries
- v Licensing the whole business concept
- v Franchising to owner/operator individuals
- v Franchising to owner/passive-manager individuals (who hire others to manage the operations for them)
- v Franchising to established companies
- v Joint Ventures
- v Management Contracts
- v Licensing

**Considering the above prospects and barriers, what do you think are the most effective modes of entry or expansion into the Saudi market? Please explain.**

### 10.2.6 IP Protection Measures

Any expansion strategy you select will carry certain level of risks involving the intellectual property. Some expansion strategies carry more critical risks than others,

## Appendices

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and hence require special efforts to protect against such risks. Some businesses lessen the risks using deterrents such as:

- v Technological protection for the know-how
- v Stringent contracts with the other party
- v Worldwide or local IP watchdog
- v Joint venturing where the know-how remains on the side of the IP owner
- v Extensive selection process of trustworthy partners
- v Licensing different components of the system to different parties
- v Seeking expansion only in WTO member countries

**How effective are the measures taken in reducing the risk of intellectual property infringement in your chosen mode of entry?**

### 10.2.7 Quality Control Measures

The level of desired control over quality is closely related to the selected mode of entry. For example, the mode of:

- + Wholly-owned Subsidiaries carries very limited compromise to the desired level of quality, because full control remains in own hands.
- + JV or Licensing carries compromised control over quality, simply because control is in somebody else's hands.
- + Franchising provides an enhanced level of control over licensing as it binds franchisees to abide by a set of rules in the operation manual.

**To what extent can you achieve the desired level of quality control in your chosen mode of entry?**

## 10.3 Appendix 3: IPR Legislative Profile in KSA

### 10.3.1 National Legislation of KSA (WIPO, 2006)

According to WIPO (WIPO, 2006), the Kingdom has the following national legislations in place:

**Table 5 National IPR legislations in KSA**

<b>A. Industrial Property</b>	• Patents:	Law No. M/38, May 1989.
	• Trade Marks:	Law No. M/5, January 1984.
	• Industrial Designs:	None.
<b>B. Copyright and Related Rights</b>	• Copyright:	Law No. 11/M, December 1989.
	• Relate:	As above, under Copyright.
<b>C. Other Country-Specific Legislation or Activities</b>	• Miscellaneous	Publication Law No. M/17, 1982.

### 10.3.2 Memberships of International Bodies

KSA enjoys the following membership status in the global arena as regards its protection of IPR.

**Table 6 KSA Membership in International bodies/treaties**

<b>Body</b>	<b>Membership</b>
<b>a. Membership of WIPO Treaties:</b>	<ul style="list-style-type: none"> <li>• WIPO Convention, since May 1982</li> <li>• Paris Convention (Industrial Property), since March 2004.</li> <li>• Berne Convention (Literary and Artistic Works), since March 2004.</li> </ul>
<b>b. WTO</b>	<ul style="list-style-type: none"> <li>• Observer</li> </ul>
<b>c. Membership of other bodies/treaties: UCC.</b>	<ul style="list-style-type: none"> <li>• Member of UCC since April 1994.</li> <li>• Member of the Patent Office of the Gulf Cooperation Council, since its inception December 1992.</li> </ul>

## 10.4 Appendix 4: TRIPS Check List

Below is the check list for the enforcement of issues on intellectual property as appears on the WTO-TRIPS ("Notifications under the TRIPS Agreement", 2006)

### CHECKLIST OF ISSUES ON ENFORCEMENT

Decision of the Council for TRIPS of 21 November 1995

In providing information on national enforcement law and practices in response to the checklist of issues below, as soon as possible after the time that a Member is obliged to start applying the provisions of the TRIPS Agreement on enforcement, each Member should identify the relevant provisions of national laws and regulations. Where a response differs according to the intellectual property right (IPR) in question, the response should be given on an IPR-by-IPR basis. The checklist follows the structure of Part III of the TRIPS Agreement; when considering what information would be relevant in response to the issues listed, Members may wish to consult the corresponding provision of Part III of the TRIPS Agreement on the Enforcement of Intellectual Property Rights.

The checklist will be reviewed by the Council, in the light of experience at the end of 1997, inter alia to identify any elements which have proven unduly burdensome in relation to the usefulness of the information provided.

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#### Civil and Administrative Procedures and Remedies

##### (a) Civil judicial procedures and remedies

1. Specify the courts which have jurisdiction over IPR infringement cases.
2. Which persons have standing to assert IPRs? How may they be represented? Are there requirements for mandatory personal appearances before the court by the right holder?
3. What authority do the judicial authorities have to order, at the request of an opposing party, a party to a proceeding to produce evidence which lies within its control?
4. What means exist to identify and protect confidential information brought forward as evidence?

Appendices

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5. Describe the remedies that may be ordered by the judicial authorities and criteria, legislative or jurisprudential, for their use:

- injunctions;
- damages, including recovery of profits, and expenses, including attorney's fees;
- destruction or other disposal of infringing goods and materials/implements for their production;
- any other remedies.

6. In what circumstances, if any, do judicial authorities have the authority to order the infringer to inform the right holder of the identity of third persons involved in the production and distribution of the goods or services found to be infringing and of their channels of distribution?

7. Describe provisions relating to the indemnification of defendants wrongfully enjoined. To what extent are public authorities and/or officials liable in such a situation and what "remedial measures" are applicable to them?

8. Describe provisions governing the length and cost of proceedings. Provide any available data on the actual duration of proceedings and their cost.

(b) Administrative procedures and remedies

9. Reply to the above questions in relation to any administrative procedures on the merits and remedies that may result from these procedures.

Provisional Measures

(a) Judicial measures

10. Describe the types of provisional measures that judicial authorities may order, and the legal basis for such authority.

11. In what circumstances may such measures be ordered *inaudita altera parte*?

12. Describe the main procedures for the initiation, ordering and maintenance in force of provisional measures, in particular relevant time-limits and safeguards to protect the legitimate interests of the defendant.

13. Describe provisions governing the length and cost of proceedings. Provide any available data on the actual duration of proceedings and their cost.

(b) Administrative measures

14. Reply to the above questions in relation to any administrative provisional measures.

Special Requirements Related to Border Measures

15. Indicate for which goods it is possible to apply for the suspension by the customs authorities of the release into free circulation, in particular whether these procedures are available also in respect of goods which involve infringements of intellectual property rights other than counterfeit trademark or pirated copyright goods as defined in the TRIPS Agreement (footnote to Article 51). Specify, together with relevant criteria, any imports excluded from the application of such procedures (such as goods from another member of a customs union, goods in transit or de minimis imports). Do the procedures apply to imports of goods put on the market in another country by or with the consent of the right holder and to goods destined for exportation?

16. Provide a description of the main elements of the procedures relating to the suspension of the release of goods by customs authorities, in particular the competent authorities (Article 51), the requirements for an application (Article 52) and various requirements related to the duration of suspension (Article 55). How have Articles 53 (security or equivalent assurance), 56 (indemnification of the importer and of the owner of the goods) and 57 (right of inspection and information) been implemented?

17. Describe provisions governing the length and cost of proceedings. Provide any available data on the actual duration of proceedings and their cost. How long is the validity of decisions by the competent authorities for the suspension of the release of goods into free circulation?

18. Are competent authorities required to act upon their own initiative and, if so, in what circumstances? Are there any special provisions applicable to ex officio action?

19. Describe the remedies that the competent authorities have the authority to order and any criteria regulating their use.

Criminal Procedures

20. Specify the courts which have jurisdiction over criminal acts of infringement of IPRs.

21. In respect of which infringements of which intellectual property rights are criminal procedures and penalties available?

22. Which public authorities are responsible for initiating criminal proceedings? Are they required to do this on their own initiative and/or in response to complaints?

23. Do private persons have standing to initiate criminal proceedings and, if so, who?

24. Specify, by category of IPR and type of infringement where necessary, the penalties and other remedies that may be imposed:

Appendices

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- imprisonment;
- monetary fines;
- seizure, forfeiture and destruction of infringing goods and materials and implements for their production;
- other.

25. Describe provisions governing the length and any cost of proceedings. Provide any available data on the actual duration of proceedings and their cost, if any.

## 10.5 Appendix 5: Western Global Franchising Companies in KSA

Brand	Country of Origin	No. of Outlets
1) McDonald's	United States	76
2) KFC	United States	51
3) Hardees	United States	130
4) Burger King	United States	35
5) Pizza Hut	United States	88
6) Fudrucker's	United States	2
7) TGI Fridays	United States	1
8) Chilis	United States	2
9) Domino's Pizza	United States	37
10) Popeye's	United States	2
11) Papa John's	Italy	17
12) Subway	United States	23
Total		464

*Source: Compiled by author from Individual websites*

## 10.6 Appendix 6: Leading Consumer Foodservice Brands in KSA

Table 7 Leading Consumer Foodservice Brands by Number of Units 2004

Brand	Global Brand Owner	Outlets
Baskin-Robbins	Allied Domecq Plc	148.0
Herfy	Savola Group	130.0
House of Donuts	House of Donuts Corp	110.0
Modern Automatic Bakeries	Saudi Bakeries Co	90.0
Pizza Hut	Yum! Brands Inc	88.0
Kudu	Kudu Corp	85.0
McDonald's	McDonald's Corp	76.0
Saudi Fisheries	Saudi Fisheries Co	60.0
Al Qassim Sweets & Bakery	Al Qassim Bakeries Co	52.0
KFC	Yum! Brands Inc	51.0
Lagoon Restaurant, The	Abdul Mohsen Al Hokair Est	43.0
Akbar Restaurant	Akbar Restaurant Co	43.0
Hamoor Al Khaleej Center	Saudi Fisheries Co	43.0
Al-Tazaj	Al-Tazaj Fakieh Corp	39.0
Domino's Pizza	Domino's Pizza Inc	37.0
Burger King	Burger King Corp	35.0
Wall's	Unilever Group	35.0
SaudiBurger	Saudi Burger Corp	34.0
Al-Baik	Express Foods Co – Al Baik	32.0
Cone Zone	Cone Zone Co.	29.0
Others	--	7,129.0
Total		8,389

Source: Adapted from ("Consumer Foodservice in Saudi Arabia", 2005)