

# Asia Franchise

## & Business Opportunities

亚洲特许经营  
加盟连锁 · 投资良机

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## Experts in Financial Matters & Digital Transformation

金融事务和数字化转型专家



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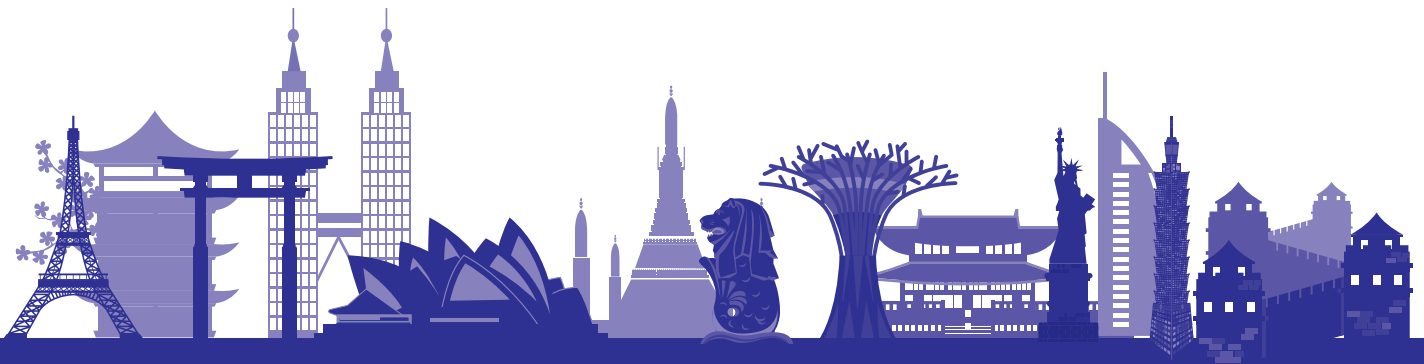
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# Note from the Editor 编辑的话



**Albert Kong 江进兴**  
Editor

Franchising, like many business models, involves dealing with people. And we all know that in franchising, the relationship between the franchisor and the franchisee is extremely important because a failed relationship can amplify matters which otherwise could have been easily resolved. Which brings me to the subject of 'respect'.

Treating others with respect reflects one's good internal values which were cultivated, because respect is based on the full affirmation of another person's personality and worth/status. So those who ignore or even rubbish the need to respect others will come across as extremely selfish; it will be difficult to predict or comprehend such people's actions (and what behaviour they will exhibit) because of their kind of stubborn mindset.

Courtesy is an external expression of respect and should be a minimum requirement for human interaction. In fact, real respect should mean equal treatment of others. Mouthing flattery to the strong and uttering superficial pity for the weak are somewhat overly utilitarian and reek of selfish desires, which definitely cannot be considered or even perceived by the wise as genuine respect.

Freedom is generally considered the highest level of happiness, and the purpose of respect is ultimately to set yourself and others free. Therefore, all parties must grasp the importance of interpersonal communication, especially when it comes to controlling their desire to interfere without being invited to do so. The secret to achieving mutual respect is to seek common ground while agreeing to disagree when there are differences.

China's famous author Lu Xun said: "I used to think that others respected me because I was distinguished, and then I subsequently

realized that others respected me because they themselves were more distinguished/well-mannered for taking the first step to show me respect. They didn't need to."

Yes, respecting others is actually showing respect to ourselves!

In many of my presentations, I often said that when you take away the letter 'r' from the word 'friend', you end up having a 'fiend'—because the 'r' stands for relationship.

与许多商业模式一样，特许经营涉及与人打交道。我们都知道，在特许经营中，特许人和被特许人之间的关系极为重要，因为失败的关系可以放大本来很容易解决的问题。这使我想到了“尊重”的主题。

重他人是一种有修养的表现，因为尊重是以人格和价值的充分肯定为基础的；漠视甚至否定他人人格和价值的人，一定是那种极度自私的人，他们做事的底线，很难从人性的角度来测量和理解。

以礼相待是尊重的外在表现，也是最起码的要求。但有一点，真正的尊重是平等相待。对强者的谄媚和对弱者的怜悯，都多少充斥着功利和私欲的杂质，那就不能称之为纯粹的尊重。

自由，是幸福的最高层次表现，尊重的目的就是让自己和他人自由。所以，尊重一定要把握好人际交往的尺度，尤其要控制好自己的干涉欲。其秘诀是一一求同存异。鲁迅先生说过：“从前我以为别人尊重我，是因为我很优秀；后来才明白，别人尊重我，是因为别人很优秀。”没错，尊重别人其实是在庄严自己！

在我的许多演讲中，我经常说，当你从“friend——朋友——一词中拿走字母“r”时，你最终会有一个“fiend”——恶魔——因为“r”代表着relationship关系。



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# Contents 目录

Jul-Sep 2021 | 7-9月份

Asia Franchise & Business Opportunities  
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FRANCHISING & LICENSING  
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## Cover Story 封面故事

Experts in Financial Matters & Digital Transformation p4  
金融事务和数字化转型专家—PALOE

## Business Insights 学者专栏

Indonesia Franchise Regulations p16  
印尼特许经营法规  
Social Franchising p19  
社会特许经营  
Facing Failure p22  
面对失败  
Making retail customers happy p28  
想要客户不断回头  
Franchisor to refund franchisees p33  
盟主退还加盟商  
Hidden Value/Hidden Risk p38  
无形资产  
Adversity Quotient p50  
逆境商  
Kinderworld wins Singapore's Best Managed Companies Award 2021 p60  
楷新国际教育集团荣获新加坡最佳管理公司奖2021

Note from the Editor p2  
编辑的话  
Asiawide Franchise Consultants p56  
爱思威特许经营顾问公司  
Asiawide Digital Advantage p58  
ADA特许经营管理软件

## News Station 消息站

Consulting4Growth Inside Front  
顾问团  
FLAsia (Singapore) p1  
新加坡特许许可展  
ThaiFex Anuga p7  
泰国饮食展  
Oldtown WhiteCoffee p8  
旧街坊白咖啡  
IFRA (Indonesia) p9  
印尼特许展  
Brands for Good p10  
知识产权具有‘做好事’潜力  
Taiwan Franchise Expo p11  
台湾加盟展  
Paris Franchise Expo p12  
巴黎特许展  
Café Paris p13  
巴黎咖啡展  
Webinar (Asia /Russia) p14  
亚洲/俄罗斯线上会议  
SBF-Japan webinar p15  
新加坡商业联合会-日本市场线上会议  
MarketingPulse (HK) p26  
香港贸发局主办的营销会议  
London Franchise Show p30  
伦敦特许展  
FIM (Malaysia) p31  
马来西亚特许展  
SIAL (Indonesia) p32  
印尼饮食展  
Restaurant Asia p43  
亚洲餐馆饮食展  
ICY/Café Asia p44  
亚洲咖啡展  
China Franchise Expos p46  
中国特许展  
China Franchise Conference p47  
中国连锁大会  
Specialty & Fine Food Asia p48  
美食及特色食品展  
TFBO (Thailand) p49  
泰国特许展  
MIFB (Malaysia) p54  
马来西亚食品展  
PFA (Philippines) p55  
菲力宾特许展



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# Paloe, your partner in digitization



Since 2015, Paloe has emerged as one of Singapore's more distinguished companies specialising in CFO (Chief Financial Officer) advisory and services. Pioneering the CFO-as-a-service movement, Paloe has been providing a comprehensive suite of services ranging from finance outsourcing to business valuation.

Under the leadership of Chief Technology Officer (CTO) Mr. Chin Han Sheng, Paloe has spearheaded technology development to the next level with the provision of digitalization solutions i.e. enabling clients to seamlessly transform their businesses from a traditional mode to one that leverages digital technology.

Through this strategy, Paloe has grown rapidly, from a finance-related firm providing basic services to an all-encompassing business-advisory and strategic advisory enterprise.



The world we live in today is not nearly the same as the one a decade ago. Technology has advanced at such a rapid rate that it has become a necessary part of our daily lives. Today, companies that do not embrace the digital era of business risk being left behind. Even older, established companies need to incorporate technology into their business model and processes or face the possibility of being overtaken by newer, more agile and innovative competitors.

## A Digital Solution - Franchise Management System

An apt example of a digital solution is the Asiawide Digital Advantage or ADA for short.

ADA was developed and co-owned between Asiawide Franchise Consultants (AFC) and Paloe.

In a nutshell, ADA is a franchise management system. It is a practical and highly flexible digital platform that enhances the business relationship between Franchisors and Franchisees. Essentially, Franchisors will use a common platform to assist Franchisees in the core work processes of onboarding, communicating, performance of site audits and the monitoring royalty fee

collection. An additional feature is the Franchisor's capability to interface with the Franchisee's point of sales (POS) to provide financial performance capabilities for the stakeholders concerned.

ADA is the ideal solution to forging stronger Franchisor-Franchisee relationships through the adoption of a digitized franchise system. With just that single idea in mind, and in view of the increasing importance of the use of technology, the teams from AFC and Paloe raced ahead to develop a full-fledged, productivity-enhancing franchise management system for the benefit of clients whether they are franchisors, franchisees or even chain store owners.

## Digital Strategies - Transform or be eliminated

What type of digital strategies can one implement?

### - Business Model Transformation

Many companies use digital technology to transform traditional business models. The aim is to completely redefine how value is delivered to the customer. One obvious example would be the obsolescence of DVDs and the emergence of streaming platforms such as Netflix



and Disney Plus. Or how GRAB completely changed the taxi industry.

### - Business Process Transformation

The age of digital technologies is offering businesses valuable new ways to reinvent their processes, resulting in a more efficient and effective customer experience. Process transformation gives finite activities—such as data and analytics—new ways to retrieve and process information. You also see companies implementing new technologies such as robotic process automation to streamline back-office processes like accounting.

### - Domain Transformation

Domain transformations are areas of big opportunities, whereby new technologies blur industry boundaries, allowing one business to slide from one area to another successfully. This area offers tremendous value for businesses to unlock new markets. One example is Amazon (started as an online marketplace for books), who remains one of the largest cloud computing/infrastructure service providers in the world. Formerly dominated by big names such as Microsoft, Amazon's strong digital capabilities allowed them to effortlessly enter this area.

### - Cultural/ Organizational Transformation

Having everyone on the same page and looking forward towards the same goals is key to a successful digital transformation. It is important that the business as a whole recognizes that integrating technology requires a completely new set of thinking,



skills and workflows. There's a need for testing and constant learning, and a different outlook on decision making. Rather than seeking one perfect solution, digital transformation requires a near constant experimentation to find solutions that drive customer-centric value.

### Innovation is the only constant

With the threat of the pandemic causing much worry amongst F&B, education, wellness/beauty, retail and other franchises, digital transformation will be the next step into value and growth creation. By embracing the customer-centric approach (over a product-centric one), businesses can leverage technology to cater to their customers' evolving needs. Technology brings in easier access to automation and self-service for customers, with some retailers even going to the extent of going fully self-service (contactless).

For those bosses that are committed to transforming and adapting to an increasingly challenging environment, it is important to make sure the strategy

is truly transformational, and not just a bundle of cost-cutting measures. It is wise to take an active, experimental approach to digital transformation, constantly testing and innovating. As technology changes and increases, industries will be constantly changing. Disruptive technology forces businesses to adopt or be swept aside.

### Conclusion

Paloe aims to be at the forefront of digital transformation firms, going as far as to create a vision (together with the client) as well as restructuring the business model to optimally adopt digital solutions. There is no one-size-fits-all strategy for any one company. On top of creating a vision, it takes constant planning, collaboration and effective strategy.

With Paloe's proprietary digital transformation approach, you will be on track to stay at the top of the competition.

**For more information, please contact Mr. Chin Han Sheng at [hansheng@paloe.com.sg](mailto:hansheng@paloe.com.sg)**





# Paloe

## 您的数字化合作伙伴



2015年以来, Paloe已成为了新加坡最杰出的公司之一, 专门从事CFO(首席财务官)咨询服务。领先于类似SaaS (Software-as-a-Service软件即服务), Paloe的CFO-as-a-service一直提供从财务外包到业务评估的一整套综合服务。

在首席技术官 (CTO) 曾汉升Chin Han Sheng 先生的领导下, Paloe 通过提供数字化解决方案引领技术发展更上一层楼, 即使客户能够无缝地将其业务从传统模式转变为利用数字技术的模式。

通过这一战略, Paloe 迅速成长, 从一家提供基本服务的与金融有关的公司发展为一家包罗万象的商业咨询和战略咨询公司。

我们今天生活的世界与十年前非常不同。技术以如此之快的速度发展, 已成为我们日常生活中必不可少的一部分。如今, 那些不接受数字化商业时代风险的公司被抛在了后面。老字号也不例外, 需要将技术融入其业务模型和流程中, 否则面临更新, 更敏捷和创新的竞争对手时, 将被淘汰。

### 数字解决方案-特许经营管理系统

Paloe的其中一个数字解决方案的合适例子是名为ASIAWIDE FRANCHISE ADVANTAGE (简称“ADA”) 的特许经营连锁管理软件。

ADA 由 爱思威特许经营顾问公司 Asiawide Franchise Consultants (AFC) 与 Paloe 开发并共同拥有。

简而言之, ADA是一个特许经营连锁管理系统; 它是一个实用且高度灵活的数字平台, 可增强特许人(盟主)与被特许人(加盟商)之间的业务关系。从本质上讲, 特许人将使用一个通用平台来协助被特许人进行“入职”——onboarding——新用户引导流程, 是刺激用户激活的增长手段之一; 沟通, 现场审核和监控特许权使用费(权益金)收取等核心工作流程。另一个功能是特许人可以与被特许人的销售点(POS)交互, 从而为相关利益相关者提供财务绩效功能。

ADA是通过采用数字化特许连锁经营系统来建立更牢固的特许人与被特许人关系的理想解决方案。带着这个单一的想法, 并且鉴于技术在商业中的应用越来越重要, AFC 和 Paloe 的团队争先恐后地开发了这个全面, 可提高生产力的特许连锁经营管理系统, 以造福客户, 无论他们是特许人、被特许人, 还是连锁店老板。

### 数字策略-转型或被淘汰

#### 实施哪种类型的数字策略?

##### - 商业模式转型

许多公司使用数字技术来改变传统的商业模式。目的是完全重新定义如何把价值交付给客户的方式。一个明显的例子是DVD的淘汰以及诸如Netflix和Disney Plus之类的流媒体平台的出现。或者GRAB(类似于国内的滴滴)如何彻底改变出租车行业。

##### - 业务流程转型

数字技术时代为企业提供了宝贵的新技术来重塑其流程, 从而带来更高效和有效的客户体验。流程转换为有限的活动(例如数据和分析)提供了检索和处理信息的新

方法。您还看到公司实施机器人流程自动化等新技术来简化会计等后台流程。

##### - 领域转型

领域转型是充满机遇的领域, 新技术模糊了行业界限, 使一项业务能够成功地从一个领域滑向另一个领域。这为企业开拓新市场提供了巨大的价值。一个例子是亚马逊(从经营在线图书市场开始), 它仍然是世界上最大的云计算/基础设施服务提供商之一。以前由微软等大牌主导, 亚马逊强大的数字能力让他们可以毫不费力地进入这一领域。

##### - 文化/组织转型

就数字化这事宜上, 公司的每个成员都必须意见一致, 立场一致, 并期待着实现相同的目标, 这是数字化转型的关键。整个企业必须认识到集成技术需要一套全新的思维, 技能和工作流程, 这一点很重要。许多有关工作流程及软件等都需要测试和大家的不断学习, 以及对决策的不同看法。数字化转型不是寻求一个完美的解决方案, 而是需要不断进行实验, 以找到能够推动以客户为中心的价值解决方案。

##### 创新是唯一不变的

随着疫情大流行的威胁引起许多餐饮, 学前教育, 美容、健身和零售加盟连锁品牌的担忧, 数字化转型将成为价值和创造增长的下一步。通过采用以客户为中心的方法(而非以产品为中心的方法), 企业可以利用技术来满足客户不断变化的需求。技术使客户更容易获得自动化和自助服务; 有些零售商甚至达到了全自动, 非接触式服务(无人)的程度。

对于那些致力于转型和适应这充满挑战的环境的老板们来说, 最重要的是要确保该战略是真正的变革性的, 而不仅仅是减少成本的措施。采取积极的、实验性的方法进行数字化转型、不断测试和创新是明智的。随着技术的变化和增长, 行业将不断变化。

##### 结论

Paloe 的目标是站在数字化转型公司的最前沿, 尽可能地创造愿景(与客户一起)以及重构商业模式以最佳地采用数字解决方案。任何一家公司都不可能找到一种万能或一刀切的战略。除了创建愿景之外, 企业老板还需要持续的计划, 与多方协作和调整谋略。

我们诚挚地邀请您, 借助 Paloe 专有的数字化转型方法, 让您的生意有望在竞争中保持领先地位。



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# BRANDS for GOOD® 2021/2022



**B**rands for Good is a non-profit organization with a threefold purpose – firstly, helping “good” brands differentiate themselves effectively and create transformative value by their intangible assets; secondly, making waves with ASEAN brands-for-good stories so as to inspire the world; and thirdly, building a global community of responsible and inclusive businesses. Today, Brands for Good leads the community building efforts with over 300 SMEs involved in positive impact enterprises, across Singapore and Southeast Asia. To achieve this purpose, it also organizes the annual Brands for Good award.



Mr Edwin Tong SC, Minister for Culture, Community and Youth and Second Minister for Law, says: “Brands for Good encourages transformative thinking that not only creates value in the marketplace, but also benefits society. The timely addition of the Leadership for Good award category this year (2019) shows that with thoughtful leadership and action, businesses and the community can grow together.”

Mr Alan Ng, Co-Chairman of Brands for Good and the founding President of IPOS Society says: “The Brands for Good philosophy underscores the particular importance of intellectual property possessing the potential to ‘do good’. Intellectual Property, therefore, is not just an economic asset but also an instrument to turn a brilliant idea or invention into a means for the betterment of human life.”

Brands for Good 是一个具有三个目的的非营利组织。首先，帮助“好—即优良，有良知”品牌有效区分自己，并通过其无形资产创造变革价值；其次，用处于东盟的诸多优良品牌的故事掀起波澜，以启迪世界；第三，建立负责任和包容性企业的全球社区。如今，Brands for Good 与新加坡和东南亚的 300 多家参与积极影响企业的中小企业一起领导社区建设工作。为实现这一目的，它还组织了年度Brands for Good奖。

新加坡文化、社区和青年部长兼法律部第二部长唐振辉先生说：“Brands for Good 鼓励变革性思维，不仅在市场上创造价值，而且造福社会。今年(2019)及时增加了“为善领导”奖类别，这表明通过深思熟虑的领导和行动，企业和社区可以共同成长。”

Brands for Good 联席主席兼新加坡知识产权协会创始主席吴永利先生表示：“Brands for Good 理念强调了知识产权具有‘做好事’潜力的特殊重要性。因此，知识产权不仅是一种经济资产，而且还是一种将绝妙的想法或发明转化为改善人类生活的手段工具。”

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# CAFE SHOW PARIS 巴黎咖啡馆秀



**Cafe Show Paris, organized by EXPORUM, Opens its Doors for the First Time from May 19, 2022, to May 21, 2022 in Paris, France.**

**咖啡馆秀2022年5月19日至2022年5月21日第一次在法国巴黎Porte de Versailles举办。**

Cafe Show, the largest coffee exhibition in Asia with 20-year experience, expands show portfolio beyond Asia to further international waters in Paris, France to provide new opportunities for global coffee and F&B industry professionals Cafe Show.

它是亚洲最大，拥有 20 年的经验的咖啡展。这次它在法国巴黎大展拳脚，为全球咖啡和餐饮行业专业人士提供新的商机。主办方预计第一届巴黎国际咖啡展将会有超过 200 家参展商和 20,000 名来自欧洲和国际咖啡和餐饮行业的参观者。

Over 200 exhibitors and 20,000 visitors within the European and international coffee and F&B sectors expected at the 1st Paris International Cafe Show.

Cafe Show was first established in Seoul, Korea in 2002 as the first exhibition in Asia that was specialized in the coffee industry. Over the past two decades, the show has developed to become a major world leading business event, bringing together over 650 exhibitors, 3,000 brands and 150,000 visitors to network, build connections and learn new industry knowledge.

Based on the expertise and insights gained from organizing Cafe Show in Seoul, the event was successfully launched in China and Vietnam in 2013 and 2016, respectively, and now looks forward to opening a new paradigm across the ocean in Paris, France in May 2022!

Cafe Show于2002年首次在韩国首尔成立，是亚洲第一个专门从事咖啡行业的展会。在过去的二十年中，该展会已发展成为世界领先的主要商业盛会，汇集了 650 多家参展商、3,000 个品牌和 150,000 名参观者，以便让大家建立联系并学习新的行业知识。基于在首尔举办Cafe Show所获得的专业知识和见解，该活动分别于2013年和2016年在中国和越南成功启动，现在期待2022年5月在法国巴黎开启跨洋新范式。

From coffee, tea, bakery, desserts, spirits to other beverages and drinks, ice-cream, organic products and more, Cafe Show Paris is to present the world with the latest products and technological breakthroughs of the industries. In addition, Cafe Show Paris will provide a variety of programs: World Coffee Battle in Paris: the world's first on/offline cross-over global barista championship, World Coffee Leaders Forum: conference during which global opinion leaders in coffee industry suggest industry trend and vision, Cafe Talk: special show case sessions where exhibitors launch new products, and Coffee Alley, a zone dedicated to trendy cafes from all over the world.

Cafe Show Paris is expected to be an effective coffee business platform for F&B companies all over the world. The show organizer, EXPORUM, is preparing online and offline hybrid programs and reinforced safety protocols for Cafe Show Paris 2022 that will allow exhibitors and visitors to expand their businesses safely and efficiently. Exhibitor registration for Cafe Show Paris 2022 is now taking place online. More information is available on Cafe Show Paris' official website <[www.cafeshow.fr](http://www.cafeshow.fr)>.

## Press Contacts

### Cafe Show Paris Team

+82-2-6000-6673 | +82-2-6000-6717

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# Franchising trends in Asia

## 特许经营在亚洲的趋势



**D**r. Rozenn PERRIGOT, expert in franchising & chains - Full Professor - Graduate School of Management (IAE Rennes) - University of Rennes 1, France, invited Albert Kong to speak on "Franchising in Asia"

on 27th April 2021 morning (Paris time). Participants: her part-time students in Master Franchising, Retail & Service Chains who are working at various chain headquarters in various industries.

**法**国特许经营与连锁业专家Rozenn PERRIGOT博士—法国雷恩1大学管理学院研究生院（IAE雷恩）正教授—在2021年4月27日上午（“巴黎时间”）邀请江进兴为她的硕士班演讲。讲题：特许经营在亚洲的趋势。参与者：零售和服务链硕士兼职学生——他们正在各个行业的许多连锁总部实习工作……我愿特许经营加盟连锁在全球范围内将继续健康发展。# 特许经营

## FRANCHISE ONLINE FORUM

### 特许经营线上论坛

Close to 10 nations' audience tuned in to listen to experts share their views on franchising at a webinar organized by TopFranchise.

超过来自10个国家的听众参与了由TopFranchise 主办的国际特许经营线上论坛



# Singapore and Japan business webinars



## Welcome Remarks

Mr Darius Lim  
Assistant CEO, Singapore Business Federation

A total number of 156 participants from Singapore and Japan took part in the business webinar entitled “Accelerating Biz Internationalization through Franchising & Licensing at 3pm on May 25th.

This exciting event was organized by the Singapore Business Federation, which is part of a series called FYIstival (a digital business and networking movement created by the Singapore Business Federation) <https://www.fyistival.com>

Franchising & Licensing Association Singapore (FLA), Japan External Trade Organization (JETRO) and Japanese Chamber of Commerce and Industry (JCCI) were the supporting organizations.



## 新加坡和日本商业网络研讨会

5月25日下午3点, 来自新加坡和日本的156位参与者参加了名为“通过特许经营和许可加速商业国际化”的商业网络研讨会. 这项激动人心的活动是由新加坡工商联合总会举办的. 这是名为FYIstival(新加坡商业联合会发起的数字商业和网络运动)系列活动的一部分. 支持机构是新加坡特许和许可协会 (FLA), 日本贸易振兴机构(JETRO)和日本商工会议所(JCCI)。

受邀的演讲嘉宾: 爱思威特许经营顾问公司总裁江进兴; 同乐餐饮集团总裁周家萌; 日本食品公司执行主席兼总裁高桥研一。

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JCCI シンガポール日本商工会議所  
SINGAPORE Japanese Chamber of Commerce & Industry, Singapore

同乐 TUNGLOK



# Indonesia Franchise Regulations



## 1. Introduction:

Indonesia's strong cultural inclination towards consumerism, a growing middle-class complemented by a young demographic, has made this beautiful archipelago a very attractive destination for both foreign brands and concepts. It may also be postulated that it is this very characteristic of Indonesian society that has led to the safeguarding and bolstering of the economy in financial crises. For example, despite the downward momentum caused by the global pandemic, consumer sentiment remains relatively strong and has contributed significantly to the country's economic recovery.

From multinational household brands to homegrown concepts, there have been a veritable spectrum of successes and failures in which the reasons may lie in the structuring of the business model. The term "franchising" can also be said to be bandied about with an overly blasé disposition, which leads to an unsurprising impression that franchising in Indonesia is somewhat straightforward. In certain cases, the structure deployed by foreign brands and concepts are not via a franchise model *per se*, but that of licencing. As such, this article shall look into each structure and what they entail, and provide a comparative analysis so that potential foreign investors may, hopefully, be better informed in their commercial decision *vis-à-vis* which structure to deploy in bringing their brands and concepts into Indonesia.

## 2. Franchising in Indonesia:

Franchising in Indonesia is primarily regulated under Minister of Trade Regulation No. 71 of Year 2019 ("**MOT 71/2019**"), wherein a multitude of criteria requirements and administrative compliance have to be met and adhered to prior to applying and obtaining a franchise certificate (*Surat Tanda Pendaftaran Waralaba*, or "**STPW**") to operate in Indonesia, which will need to be obtained by both the franchisor and the franchisee. Prior to the passing of the MOT 71/2019, franchise regulations in Indonesia comprised of a suite of regulations, which shan't be expatiated herein this article given that the purpose of MOT 71/2019 was to assist in streamlining franchising regulations in Indonesia.

The general spirit of MOT 71/2019 is one of protectionism whilst balancing the need to have Indonesian maintain enough attractiveness for foreign franchisers. Insofar as understanding the stance of the Indonesian government would certainly assist in providing some perspective, whereby an order or reasoning may be discerned in the requirements and compliances, rather than simply viewing

them as hindrances and cumbersome undertakings. Key changes were brought about under MOT 71/2019, whereby the limitation of the validity period of the STPW were removed, along with other restrictions such as the event of early termination and appointment of a new franchisee, and the minimum requirement to utilise locally-sourced materials. The finer points of MOT 71/2019 and shall be assessed hereunder.

A good place to commence is to ascertain if the foreign franchisor meets the requirements to deploy a franchise structure in Indonesia. Article 2 of MOT 71/2019 provides an array of criteria to be met to qualify as such, including without limitation evidence of a minimum experience period of 5 (five) years, having formal standard of services and goods for such services and goods offered, ability to provide continuing support to the franchisee, profitability, registration of intellectual property, and having franchising experience outside of Indonesia. It is unmistakeable that such requirements imposed by the Indonesian government is to ensure risk mitigation for local franchisees with untested foreign brands. Certain schools of thought may perceive such impositions as government intervention in a free market enterprise, whilst others prefer to opine that ensuring the best possible extent the probability of success can only contribute towards the Indonesian economy and ergo in so doing, limits potential outcomes of major economic loss by the local franchisee, and preventing the sometimes-inevitable eventuality of disputes.

Assuming that that the potential franchisor meets the aforementioned criteria, a franchise offering prospectus will then be required to be prepared and circulated to potential franchisees prior to the signing and execution of a franchise agreement. A franchise offering prospectus shall contain certain information as prescribed under Appendix I of MOT 71/2019, such as, *inter alia*, the legality of the franchise business, the history of the business, and financial statements. It is worth noting of the necessity for the franchise offering prospectus to be legalised at the nearest Indonesian foreign mission in the jurisdiction of the overseas franchisor. Meanwhile, Appendix II of MOT 71/2019 also explicitly stipulates the minimum content requirement of a franchise agreement. As such, existing franchise agreements (used outside of Indonesia) can be utilised but will require adaptation to ensure compliance with Indonesian laws, in particular but in no way limited to MOT

71/2019 and the Indonesian Civil Code ("ICC"). It is also worth noting that it is not mandatory for the appointed franchisee to be a 100% local company, and may even be the wholly or partially foreign owned investment company of the overseas franchisor.



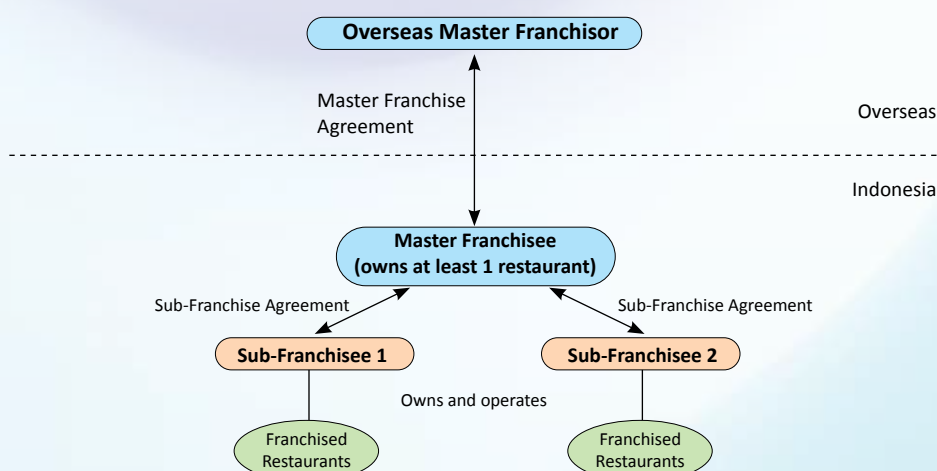
Naturally, in addition to the aforementioned requirements for the Franchisor's STPW and Franchisee's STPW, the business will also be required to comply with other applicable Indonesian law in terms of business licence. For example, the relevant business licences on the Online-Single-Submission ("OSS") system by the relevant Ministry (e.g. Ministry of Tourism for F&B sector) will also need to be obtained by the franchisee.

Indonesian franchise regulation also allows for master area, unit franchising, and sub-franchising, supporting by the underlying transactional documents in addition to the minimum as hitherto elucidated. These allows for greater flexibility in market segmentation, for example, in addition to working with various local franchisees on a non-exclusive basis. Some structures (simplified and self-explanatory) are exhibited below:

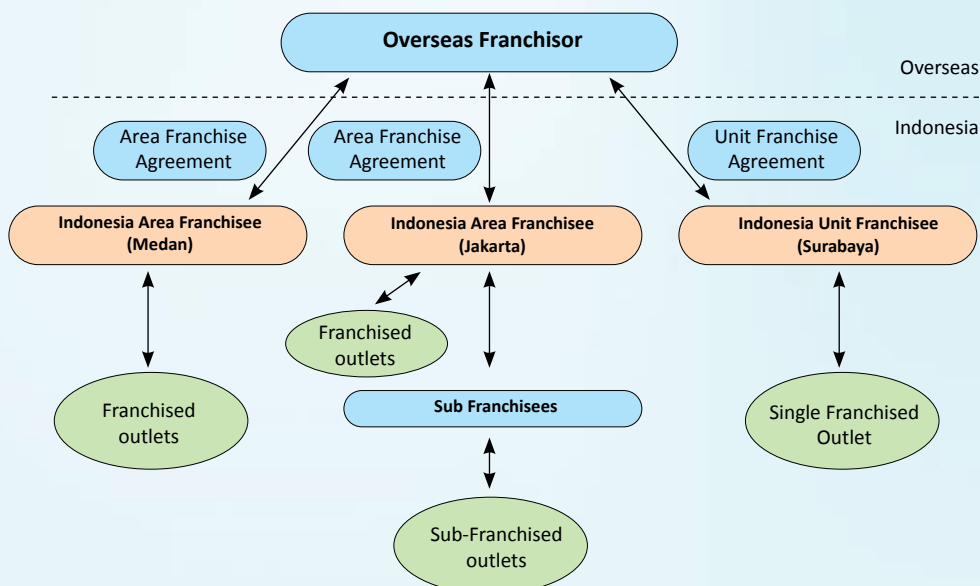
As intellectual property is also a pre-requisite to qualify as a franchise model, it is worth delving into trademark registration in Indonesia. Regardless of whether one has a trademark

registered in another jurisdiction, registration in Indonesia is mandatory and as such it is of utmost importance to ascertain if one's trademark has already been registered. It is also sadly not uncommon that there may be cases of overenthusiasm in the local populace where trademarks are registered 'on behalf of' foreign brands. In the event of such, then there may be some added complexity. However, assuming the aforesaid enthusiasm was not over extended to a franchisor, trademark registration in Indonesia may then be filed for, and may be applied for by a foreign entity (not necessarily an Indonesian company). The intellectual property requirements under franchise regulations can be satisfied by providing the acknowledgement receipt that the relevant registration has been filed with the Directorate General of Intellectual Property, Ministry of Law and Human Rights ("MOLHR") as the actual trademark ownership certificate itself will require on or around 2 (two) years to complete, barring any unforeseen circumstances, although the Indonesian authorities are constantly reforming the system to cater for a shorter timeframe moving forward.

### • Franchising Structure: Master Franchisee

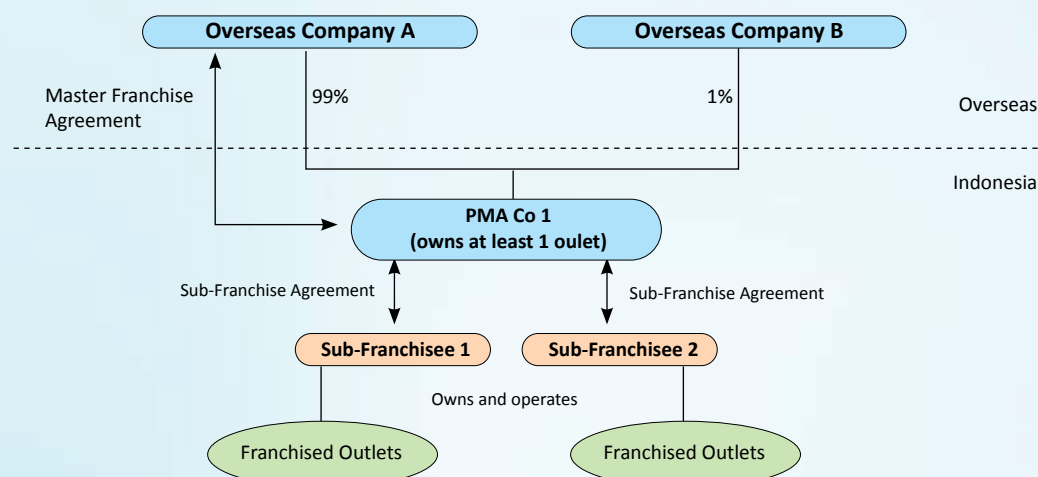


### • Franchising Structure: (Area/Unit Franchisee)





## • Group Franchise Arrangement



## 3. Licencing in Indonesia

Foreign brands/concepts that do not meet the minimum requirements to qualify for a franchise model need not be completely dissuaded from doing business in Indonesia. As a viable alternative, licencing may sometimes also prove to be more efficient or effective, though naturally this would be subject to the distinctive characteristics and factors of each individual case. There are fewer procedural compliances, and depend largely on transactional documents such as licence agreement and perhaps a technical assistance agreement; the former requiring registration with the MOLHR, as required under MOLHR Regulation No. 8 of Year 2016 on Requirements and Procedures for Applications for Recording Intellectual Property Licence Agreements.

It must however be explicitly iterated that licencing is not a means to bypass or circumvent franchise regulations, where one operates a 'franchise business' utilising a licencing model. This is not only a breach of Indonesian law if scrutinised under the substance-over-form approach by the Indonesian authorities, but it also consists of commercial risk exposure to the brand and concept whereby the aforementioned transactional documentation may be declared to be void and unenforceable due to it being tainted with illegality and therefore breaching the ICC hence complicating enforcement against the counterparty, should the need arise so then. So where lies the Rubicon between franchising and licencing, and how does one ensure that the licencing structure does not contain franchise trappings? This mainly lies in the transactional documents and inquiry into the degree of 'autonomy' and conversely, intervention. Typically, a franchise structure offers little to no degree of autonomy and discretion on the part of franchisee given that the entire business model is franchised out from the franchisor to the franchisee and the

said franchisee will need to adhere to all measures instructed by the franchisor. However, when compared to the license structure, the licensor will allow the licensee to use the licensor's intellectual property and although certain control mechanisms can be put in place via say, a technical assistance agreement, there is no "business model" that is licensed out per se. In market practice, it is possible for parties to start out with a licensing structure and thereafter convert the said structure into a franchise structure, although do note that this will involve amending/updating the relevant license documentation to be compliant with the franchise regulations, in particular MOT 71/2019.

## 4. Conclusion

There are no certain or fixed advantages or disadvantages when considering a franchise model or a licencing structure, where its suitability largely depends on the business model itself. Naturally, meeting the rigid requirements under franchise regulations in Indonesia would provide a greater degree of flexibility, instead of being 'forced' into licencing. Whichever option is chosen, the significance of appointing the right local franchisee or licensee may not be understated, and even if such brands/concepts were to decide to appoint its own Indonesian subsidiary as the franchisee/licensee, working closely with local partners and personnel is vital to the commercial future of the business.

Apart from selecting and deploying the right structure in Indonesia, one must also dedicate time and efforts to understand the local culture and terrain, which is not only a philosophically sound venture but may also negate unnecessary hurdles and pitfalls in the latter stages of the commercial sojourn. Ergo, setting-off on the right foot from the 'get-go' is really the underlying key to success as this beautiful archipelago is not what it once was.



## Tuah & Suparto

(Advocates & Solicitors)

**Andrew Tuah** is a qualified lawyer in Indonesia and a Partner at Tuah & Suparto Law Firm, in association with Angeline Suparto Law Corporation, Singapore. He holds 2 law degrees, Indonesia Sarjana Hukum and UK LLB (Hons.). He specializes in corporate and commercial law, in particular foreign investments. Andrew is fluent in English, Bahasa Indonesia, Mandarin and Cantonese.

# End Poverty: The Promise of Social Franchising

One of the world's foremost natural historians, David Attenborough, has issued a stark warning and a call to arms, in a Netflix documentary "A Life on Our Planet". Attenborough draws a direct correlation between "out of control population growth" caused by poverty and the potential demise of life as we know it. He believes that if left unchecked, our population growth will tax what little natural resources we have left, by compounding our carbon emissions, our plastic waste, our water quality, and our deforestation. Today, we are experiencing unprecedented storms, drought, forest fires, and sea level rise. The result will be an uninhabitable planet for humanity, within two or three generations, your children, and your grandchildren, if something is not done.

In summary, humanity is at grave risk. The planet will recover, but we may not. But all is not gloom or doom. To reverse this path, Attenborough prescribes one straightforward but seemingly impossible challenge.

We must lift the world out of poverty, by raising the living standards of the poor, without increasing the environmental impact on the planet.

It should therefore come as no surprise why the #1 UN Sustainable Development Goal (SDG) is NO POVERTY. Globally more than 700 million people and 1 in 5 children live in extreme poverty and youth are 3 times more likely than adults to experience unemployment. This condition creates generational cycles of poverty with negative outcomes including crime, civil disobedience, drug use, wars and



environmental degradation. To meet youth employment needs, 600 million jobs will have to be created over the next 15 years. Traditional international development will not meet these needs, because it focuses on a top down-trickle down paradigm that primarily funds infrastructure projects benefiting the governments and the "haves" of a nation, with trickle-down to the "have nots". "Top down" does not move the needle on the income divide in developing nations.

I personally believe that social franchising, if developed and financed correctly, has one of the best potentials to make a difference to the planet's environmental crisis by tackling extreme poverty. Given the enormity of poverty mitigation, social franchising is the most effective way to quickly scale outstanding social ventures that create jobs to deliver social impact to lift livelihoods. One example of a social franchise is JIBU, an African water company. It took four years of "friends and family" money to develop the franchise before it started to scale. The problem is that there are very few people who will take the risk to invest in such social-impact capital necessary to create a social venture like JIBU, research its market feasibility, build a set of financials, engineer a prototype and then run a commercial proof-of-concept before turning to social franchising to scale it.

To end poverty, we must develop innovative franchisable social ventures like JIBU, that will create jobs to deliver social impact to reach thousands of low-income communities and millions of people. To accomplish this, we need to build a global pipeline that consists of four key elements: (1) We need to train human resources to develop "franchisable" social ventures.







To do that we need to introduce social entrepreneurship and social franchise training into the post-secondary curriculum since most institutions don't offer them. Post-secondary institutions offer the most fertile ground to "ideate and grow" seed stage social ventures. But to begin this process, we need to transition these institutions from talking about the UN SDG's to tackling the UN SDG's starting with SDG #1. This means training students in social entrepreneurship and engaging small student teams in the development of franchisable social ventures that can meet local poverty reduction challenges. (2) Given the urgent need to save the planet, we need to infuse a "sports-like culture" into the process and motivate these teams, by having them go head-to-head in national, regional, and global competitions so that the most outstanding social ventures can be identified. (Think FIFA!) (3) We then need to award the winners of these competitions with financial grants to conduct commercial proofs of concepts so that we can affirm their venture's financial sustainability, market receptivity and scalability utilizing social franchising. (4) We then must find the funding to build this pipeline and make sure that over time the pipeline itself will be financially sustainable.

Funding for seed stage social ventures, including the pipeline that can bring them to life, and the funding for social franchise scaling is a very difficult task- "the elephant in the room". It is often referred to as the "valley of death" given the absence of investment capital in this space. International Development Agencies shy away because social venture deals are too small or too risky or not a fit for one of their silos; Environmental, Social and Governance (ESG) investors avoid them because they are risk-averse and there is no "P" for Poverty in ESG; The name brand foundations won't take a bet, given that most of them have hung "do not disturb" signs on their front doors. Finally, there are the handful of authentic End-Poverty social impact investors who do take small bets, but they get tapped out early and lack the financial firepower needed to build a global poverty reduction pipeline. The challenge boils down to finding an individual or entity who does have the financial fire power, understands that planetary time is short, and wants to engage in a legacy play to underwrite the pipeline construction.

Over twenty years ago, while I was involved in a series of deep technology startups, I coined a social franchise concept called "micro-franchising" (one person one franchise) which recognized that the fundamental employment of those living in

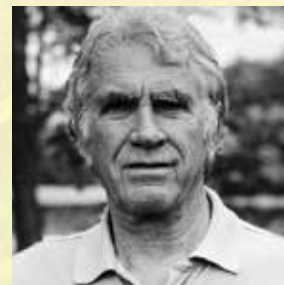
poverty is self-employment, not employment. Although I tried to promote it, at that time, the International Poverty Reduction Industry was not ready for a sustainable business approach to poverty reduction. So recently, I decided to try again, and four years ago I started the non-profit Social Ventures Foundation. Its mission: facilitating the development of grassroots social venture solutions to local poverty reduction challenges that can be scaled utilizing social franchising. This mission is focused on creating job-producing social ventures that deliver social impact at an affordable price to low-income communities.

Our flagship program is EPIC, End Poverty Innovation Challenge <https://www.epicsocialventures.com/>. EPIC is a pipeline that engages the next generation of social entrepreneurs at post-secondary institutions worldwide in developing the next generation of grassroots social venture solutions to local community poverty-reduction challenges. We engage EPIC TEAMS of student social entrepreneurs to ideate, develop, and prototype social ventures. They are then rank-ordered in terms of social impact and franchisability through global competition and commercial proof of concepts.

EPIC is a "pipeline" consisting of post-secondary social entrepreneurship and social franchise training; social venture development; social venture vetting through competitions; and grants for competition winners that will underwrite their commercial proof of concepts and set the stage for scaling utilizing social franchising. EPIC is a legacy play that requires legacy like capital to underwrite the global pipeline that we are in the process of constructing. If you have any questions or would like to reach out to me, please feel free to do so. [marc@socialventuresfoundation.org](mailto:marc@socialventuresfoundation.org).



#### **Marc Blumenthal, Executive Director, Social Ventures Foundation**



Marc is a technology and social entrepreneur who co-created a publishing enterprise as a freshman at the University of Pennsylvania. Upon graduation he founded a nonprofit educational organization that engaged

over 2 m students and faculty throughout the USA in experiential education programs. He then represented the MIT Plasma Fusion Lab for the proposed placement of a Tokamak test reactor. He then Co-founded VisionScope, a medical device company along with the Ex-Team Physician of the New England Patriots and Boston Red and was a principal of a Satellite Communications Company founded by the Communication Scientist for the Voyage II satellite, the farthest manmade probe from planet Earth.



# 消除贫困：社会特许经营的承诺



世界上最自然历史学家之一大卫·阿滕伯勒 (David Attenborough) 在 Netflix 的纪录片“我们星球上的生活”中发出了严厉的警告和号召。他是由贫困引起的“失控的人口增长”与我们所知的潜在生命消亡之间建立了直接关联。他认为，如果任其发展，我们的人口增长将加剧我们的碳排放、塑料垃圾、水质和森林砍伐，从而对我们所剩无几的自然资源火上加油。今天，我们正在经历前所未有的风暴、干旱、森林火灾和海平面上升。结果将是一个人类无法居住的星球，如果不采取措施的话，在两到三代之内，你我的孩子和子孙孙都收牵累。总之，人类处于严重危险之中。地球会恢复，但我们可能不会。但一切都不是悲观或厄运。为了扭转这条道路，阿滕伯勒规定了一个向前但看似不可能的挑战。我们必须通过提高穷人的生活水平，在不增加对地球环境的影响的情况下，使世界摆脱贫困。

因此，联合国把“没有贫困”当作首个可持续发展目标 (SDG) 也就不足为奇了。全球有 7 亿多人和五分之一的儿童生活在极端贫困中，青年失业的可能性是成年人的 3 倍。这种情况造成贫困的代际循环，产生负面结果，包括犯罪、公民不服从、吸毒、战争和环境退化。为了满足青年就业需求，未来 15 年必须创造 6 亿个工作岗位。传统的国际发展将无法满足这些需求，因为它侧重于一种自上而下的模式，主要资助基础设施项目，造福于政府和国家的“富人”，并涓滴到“穷人”。“自上而下”并没有改变发展中国家的收入差距。

我个人认为，社会特许经营如果能得到正确的发展和融资，最有潜力通过解决极端贫困来改变地球的环境危机。鉴于减贫的艰巨性，社会特许经营是快速扩大优秀社会企业规模的最有效方式，这些企业创造就业机会，产生社会影响，改善生计。社会特许经营的一个例子是非洲水务公司 JIBU。在开始扩大规模之前，它花了四年向“朋友和家人”凑资金来开发特许经营权。问题在于，很少有人愿意冒险投资于创建像 JIBU 这样的社会企业。开业前还需要研究其市场可行性、建立一套财务、设计原型然后做验证该概念，然后在转向社会特许经营以扩大规模。

为了消除贫困，我们必须发展创新的特许社会企业，如 JIBU，这将创造就业机会，产生社会影响，惠及数千个低收入社区和数百万人。为此，我们需要建立一个由四个关键要素组成的全球管道：(1) 我们需要培训人力资源以发展“可特许经营”的社会企

业。为此，我们需要将社会企业家精神和社会特许经营培训引入大专课程，因为大多数机构不提供这种课程。大专院校为“构思和发展”种子阶段的社会企业提供了最肥沃的土壤。但要开始这个过程，我们需要就达到“没有贫困”目标将这些机构从谈话到行动的转变下功夫。这意味着对学生进行社会创业培训，并让小型学生团队参与发展可以应对当地减贫挑战的特许社会企业。

(2) 鉴于拯救地球的迫切需要，我们需要在这个过程中注入“体育竞赛文化”并激励这些团队，让他们在国家、地区和全球的比赛正面交锋，以便可以确定最杰出的社会企业。(3) 然后，我们需要向这些比赛的获胜者授予财政资助，以进行概念的商业证明，以便我们能够利用社会特许经营来确认他们的企业的财务可持续性、市场接受度和可扩展性。(4) 最后，我们必须找到建造这条管道的资金，并确保管道本身随着时间的推移在财务上是可持续的。

为种子阶段的社会企业提供资金，包括可以让他们成长，以及为社会特许经营规模提供资金是一项非常艰巨的任务。鉴于该领域缺乏投资资本，它通常被称为“死亡之谷”。许多国际开发机构回避，因为社会企业规模太小或太冒险，或者不适合他们的长期目标；名牌基金会嗤之以鼻，因为他们根本没有兴趣。最后，还有少数真正的终结贫困社会影响力投资者确实会投点小注，但他们很快便就面临手头拮据，更不用说缺乏建立全球减贫管道所需的财务火力。挑战归结为找到一个确实拥有财务火力的个人或实体（认可这概念，知道时间紧迫，并承保其管道建设为遗产）。二十多年前，当我参与一系列深科技创业时，我创造了一个社会特许经营概念，称为“微型特许经营”（一人一个特许经营），该概念认识到贫困人口的基本就业是自谋职业（自己当老板），不是就业。尽管我试图推动它，但当时国际减贫产业还没有准备好采用可持续的商业方法来减贫。所以最近，我决定再试一次，四年前我创办了非营利性社会风险投资基金会。其使命：促进草根社会风险解决方案的发展，以应对当地减贫挑战，可以利用社会特许经营扩大规模。该使命的重点是创建创造就业的社会企业，以负担得起的价格为低收入社区带来社会影响。

我们的旗舰计划是 EPIC，终结贫困创新挑战 <https://www.epicsocialventures.com/> 它是一个管道，它让全球大专院校的下一代社会企业家参与为当地开发下一代基层社会风险解决方案争夺排名，为社区减贫挑战。我们聘请学生社会企业家的 EPIC 团队来构思、开发和原型社会企业。然后通过全球竞争和概念的商业证明，根据社会影响和特许经营能力对它们进行排序。EPIC 是一条“管道”，由专上社会创业和社会特许经营培训组成；社会企业发展；通过竞赛进行社会风险审查；以及为竞赛获胜者提供的资助，这些资助将承保其概念的商业证明，并为利用社会特许经营扩大规模奠定基础。EPIC 是一种遗产游戏，需要像资本这样的遗产来承保我们正在建设的全球管道。如果您有任何问题，请随时联系我。marc@socialventuresfoundation.org







# Facing Failure



No entrepreneur can say they will never fail, just like no one can claim that they never make mistakes. But failure is not necessarily the mother of success, and mistakes do not necessarily lead to the right direction. The real key is how we face failure correctly.

There are two kinds of failures in real life; one is meaningful failure and the other is unnecessary failure. Those who have accepted meaningful failures can recognize their mistakes, dive deeper into learning, trigger innovation, and solve problems in more unusual ways.

Appropriate response and recovery can allow entrepreneurs to draw the strength to achieve success from mistakes and even failures. Creating an open and transparent company culture can give everyone the opportunity to learn from failure. Tolerating small failures is also a good way to engender innovation and develop new products/services.

For true entrepreneurs, having the 'badge of honor of failure' is more valuable than having expensive sweaters, Apple watches, and merino lazy shoes. A failure can cause entrepreneurs to look at new ways to move forward.

## There are two key issues to consider here:

1. Is failure absolutely necessary for entrepreneurial success?
2. If so, how much failure will be beyond the entrepreneur's tolerance?

A venture capitalist said that investors have limited tolerance for failure: "It may be nothing to fail once, but too many failures will make it impossible to obtain funds."

Looking back on my personal previous failures, I usually divide them into two categories:

- **Meaningful failures:** Some particular mistakes taught me about the importance of software (IT knowledge) and entrepreneurship; they compelled me to develop myself better, which can be regarded as a catalyst for future success.
- **Unnecessary failures:** With more detailed planning, research, and guidance/counsel, these errors could have been avoided.

**To achieve success instead of being "easy to fail, often fail", it seems obvious to me that you need to:**

- Clearly distinguish between the two above-mentioned failures.
- Be able to increase meaningful failures and reduce unnecessary failures.

Research published in the Journal of Learning Sciences shows that meaningful failures can indeed make people more successful. In the experiment, the researchers tracked and investigated the progress of two classes of students learning certain math skills from the same teacher. They found that failures can encourage students to study more in-depth, trigger innovation, and solve problems in more usual ways.

## So, how do the most successful people in the world deal with failure?

### 1) They ignore blame

"Executives I've interviewed in organizations as different as hospitals and investment banks admit to being torn: How can they respond constructively to failures without giving rise to an anything-goes attitude? If people aren't blamed for failures, what will ensure that they try as hard as possible to do their best work? This concern is based on a false dichotomy. In actuality, a culture that makes it safe to admit and report on failure can—and in some organizational contexts must—coexist with high standards for performance, Harvard Business School Leadership and Management Professor Amy Edmondson said. "Which of these causes involve blameworthy actions? Deliberate deviance, first on the list,

obviously warrants blame. But inattention might not. If it results from a lack of effort, perhaps it's blameworthy. But if it results from fatigue near the end of an overly long shift, the manager who assigned the shift is more at fault than the employee. As we go down the list, it gets more and more difficult to find blameworthy acts. In fact, a failure resulting from thoughtful experimentation that generates valuable information may actually be praiseworthy. When I ask executives to consider this spectrum and then to estimate how many of the failures in their organizations are truly blameworthy, their answers are usually in single digits—perhaps 2% to 5%. But when I ask how many are treated as blameworthy, they say (after a pause or a laugh) 70% to 90%. The unfortunate consequence is that many failures go unreported, and their lessons are lost.” <https://hbr.org/2011/04/strategies-for-learning-from-failure>.

Obviously, it is the responsibility of executives to create an open and transparent company culture. By confidently “admitting” failures and evaluation errors, the company will naturally gain the support of team members.

## 2) Their failures are not serious

The most successful people in the world have also realized the importance of “little failures”.

Author Peter Sims described this process as low-risk gambling in “Little Bets: How Breakthrough Ideas Emerge from Small Discoveries”.

In the book, Sims detailed how leaders in different industries can test their ideas with expected risks. For example, the world-famous comedian Chris Rock is known for telling new jokes in small venues. The routines he rolls out in his global tours are the output of what he has learned from thousands of “little bets”, nearly all of which failed.

“A lot of people still feel that failure is a manifestation of individual incompetence, and they want to avoid failure at all costs,” said Andrew Filev,



Wrike's CEO and founder. “But when you think of business as a series of experiments, you start to feel that failure is an inevitable part of this process.” <https://www.wrike.com/blog/startups-how-to-do-pr-find-investors-deal-with-failure-work-management-roundup/>

The correct approach is to encourage employees to take risks and tolerate their small failures. For example, before a large-scale product promotion, show new products or new versions to small test groups. This method helps to gather effective feedback, eradicate problems, and compare the new version with the old version. Complete testing is indispensable. This is the best way to ‘perfect’ the product, by effectively listening to a small number of users, and avoiding the risk of disappointing all users.

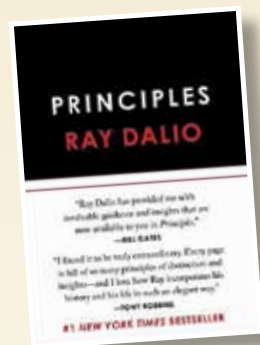
## 3) They reflect on experience and lessons

In the business world, failure is more common than ever. Fact: in 1937, the average time a company got listed on the S&P 500 index was 75 years. Now, most companies can only stay there for 15 years on average. Failure and innovation go hand in hand, and the failure of one company can often contribute to the success of another company. However, few people take the time to evaluate failures in depth. “The key to this process—90% of people don’t do it—is to spend a few minutes thinking about what happened and to think honestly about the reasons for the failure.” said Graham Young, a writer for Fast Company magazine. [https://www.fastcompany.com/3035120/4-steps-to-overcoming-failure-and-using-it-to-your-advanta?itm\\_source=parsely-api](https://www.fastcompany.com/3035120/4-steps-to-overcoming-failure-and-using-it-to-your-advanta?itm_source=parsely-api)

## 4) They treat failure as a game

The last thing I want to say is that the most successful people in the world don’t

seem to take themselves too seriously. Of course, they care about their own pursuits, goals, and interests. However, in the end, they feel that life is like a playground, and these unexpected challenges and twists are only part of the game in this earthly life. Roy Dalio, the founder of Bridgewater Associates, wrote in the book “Principles”: “Think of life as a game or martial art. Your task is to figure out how to overcome challenges and achieve your goals. When playing games or practicing martial arts, you will be more proficient. As you progress, the game will be upgraded. This requires - and will also teach you higher skills.”



Every player agrees that playing the same level of the game over and over is very boring. Simply put, we as entrepreneurs want challenges, we need to get out of our comfort zone and face an unfamiliar environment. Gamification is not about despising or belittling life but reshaping life and facing failures better as they come. They make life more interesting. When we are facing professional and personal frustrations in ‘the game’, the frustration is obviously much lighter. The challenges faced in order to succeed in the next round can then even be thought of as exciting. <https://www.linkedin.com/pulse/6-key-principles-greatest-checklist-ever-written-ray-dalio-syrotkin/>

In closing, I will say that the more tolerant we are to meaningful failures, the fewer real failures will occur, which is most encouraging.







# 面对失败

## 没

有哪位创业者从不失败，就像没有人会从不犯错。但失败并不必然是成功之母，错误也不必然通向正确，真正的关键是我们如何正确地直面它。

现实生活中有两种失败，一种是有意失败的失败，一种是不必要的失败。那些接受了有意失败的失败的人，能够意识到自己的错误，进行深入学习，促进创新、以与众不同的方式解决问题。

恰当的应对和复盘，可以让创业者从错误乃至失败中汲取成功的力量。打造公开透明的公司文化，能让所有人获得从失败中学习的机会。容忍小小的失败，也是完成创新、打造新产品的必经之路。

对于很多创业者来说，拥有失败这个荣誉徽章比拥有昂贵的卫衣、Apple手表、美利奴羊毛懒人鞋更让人骄傲。一次失败，能让创业者更有能力创造新的事物。

这里有两个关键问题需要思考：

一、失败对于创业成功来说是绝对必要的吗？

二、如果是的话，多大程度的失败会超出我们的承受范围？

一位风险投资人说，投资者对失败的忍耐力是有限的：“失败一次可能没什么，但失败太多次就无法获得资金了。”

**回顾以前的失败，我通常将其分为两类：**

- **有意义的失败：**这些错误教会了我有关软件开发和创业的知识，让我学会了更好地发展自我，算得上是未来成功的催化剂。
- **不必要的失败：**通过更详细的规划、研究和指导，这些错误本可以避免。

**要想从“容易失败、经常失败”中实现成功，似乎需要：**



- 明确区分两种失败。
- 能够增加有意义的失败、减少不必要的失败。

<<学习科学>>杂志发表的研究表明，有意义的失败确实能让人更加成功。在实验中，研究人员追踪调查了两个班级同学向同一位老师学习某些数学技能的进度，他们发现失败能鼓励同学们进行深入学习，促进创新、以与众不同的方式解决问题。

那么，世界上最成功的那些人，是如何对待失败的？

**一、他们忽视责备**

“我在医院、投资银行等性质不一的机构采访了一些管理者，他们承认自己很纠结：如何能够建设性地应对失败而不产生‘就这样吧’的态度？”哈佛商学院领导与管理学教授Amy Edmondson说道，“如果人们不会因失败而受到责备，那么怎么才能确保他们会尽力把工作做到最好？”Edmondson认为，这种担忧基于错误假设：大多数失败都是有意为之的。但研究表明大多数失败确实不应受责备；有的是因为问题复杂，有

的则是创新所必需。“当我让管理者估算他们的组织中有多少失败是真正应该受到责备时，他们的回答通常是个位数。”Edmonson说，“但当我问有多少人受到责备时，他们会说，70%到90%。因此，许多失败都没有上报，老板和员工错失了宝贵的学习机会。”

显然，打造公开透明的公司文化是高管的责任。通过自信地“承认”失败，评估错误，公司自然会获得团队成员的支持。

## 二、他们的失败都不严重

世界上最成功的人也意识到了“小小失败”的重要性。作者Peter Sims在《Little Bets: How Breakthrough Ideas Emerge from Small Discoveries》中将这一过程描述为低风险赌博。在书中，Sims详细介绍了不同行业的领导如何承担着预期风险来试验他们的想法。比如，世界著名喜剧演员Chris Rock因喜欢在小场地里讲新笑话而闻名。他“点燃全场”，丢弃的素材比保留下来的更多。

“很多人仍然觉得失败是个体无能的表现，不惜一切代价，想要避免失败，”Wrike首席执行官兼创始人Andrew Filev说道，“但当你把商业看作一系列实验时，就会开始觉得失



败是这个过程中不可避免的一部分。”

正确的做法是，鼓励员工敢于冒险，包容他们的小小失败。比如在进行大规模的产品推广之前，向小型测试群体展示新产品或新版本。这种方法有助于收集有效的反馈，根除问题，比较新版本与旧版本。完备的试验必不可少，这是优化产品的最佳方法，有效倾听小部分用户意见，而避免让所有用户失望的风险。

## 三、他们反思经验教训

在商业圈，失败比以往任何时候都来的普遍。试想，1937年的时候，一家公司在标准普尔500指数上存在的平均时间为75年。而现在，一般企业平均仅能在股市中存在15年。

失败与创新齐头并进，一家公司的失败往往能促成另一家公司的成功。但是，很少有人花时间深入评估失败。我说的不是在精神上受折磨，谴责我们本可采取更好的做法。我说的是让个人思考，了解陷入困境的真正缘由。“该过程的关键——90%的人没有这么做——是花几分钟时间来思考发生的事情，自己坦诚地思考失败的原

因。”《快公司》杂志撰稿人Graham Young如是说。

## 四、他们把失败当成游戏

最后要说的是，世界上最成功的人似乎都不把自己当回事。当然，他们很在意自己的追求、目标、利益。但是，到头来，他们觉得生活就像游乐场，这些意料之外的挑战、曲折只是游戏的一部分。桥水基金创始人达利欧在《原则》一书中写道：“把生活当作游戏或武术，你的任务是弄清楚如何克服挑战，实现目标。在玩游戏或练习武术的时候，你会更加熟练。随着你的进步，游戏将升级。这需要——同时也会教你更高的技能。”

每个玩家都同意，一遍又一遍玩游戏的同一级别非常无聊。简单地说，我们要挑战，需要走出舒适圈，面对陌生的环境。游戏化并不是轻视生活，而是重塑生活、面对失败，它们让生活变得更加有趣。当我们在游戏里面对职业、个人挫折时，挫败感明显要轻得多。在下一轮中为了取得成功而面临的挑战甚至会让人为之振奋。

我们对有意义的失败越包容，真正失败的次数就会越少，这一点非常鼓舞人心。





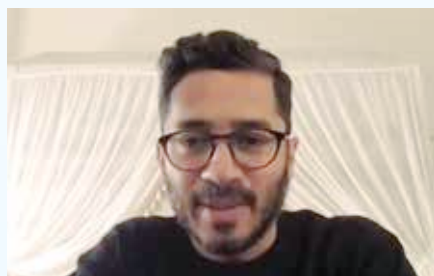


# Marketing In a Changed World



**M**arketingPulse Online, a two-day virtual conference organised by the Hong Kong Trade Development Council (HKTDC), attracted an audience of more than 21,000 from over 50 countries and regions across the globe. Under the theme “Marketing for GOOD”, the conference hosted 27 seminars and workshops, bringing together more than 40 marketing and advertising experts to share creative strategies, examine COVID-19-era marketing trends and share digital transformation success stories.

## Digital transformation impact:



Focusing on digital transformation and the impact of new marketing technologies, speaker Mayur Gupta – Chief Marketing and Strategy Officer at Gannett – USA Today Network – discussed how marketers can respond to behavioural shifts. He said that marketers can leverage technologies in the era of uncertainty

and predict growth trends amid digital transformation. “COVID-19 basically punched all of us in the face, and it has taken us back to the basics of what marketing always had to be, and what it ought to be – the three simple Ps, which are defining your purpose, the promise you make to the consumer that reflects that purpose and, ideally, the product you deliver matching that promise,” he said.

Jeny Yeung Mei-chun, Commercial Director of Hong Kong’s commuter rail service MTR Corporation Limited,



shared her tips on how brands can connect with customers and the community at every digital touch point, with insights on digital acceleration. “Like transportation companies in many other cities around the world, the MTR is going through a smart journey to upgrade its capabilities to help the community,” she said. “So, a lot of the features in our new app revolve around how customers can use our services better, but the other major component is lifestyle information since passengers are

now demanding more than the basic core services.”

**Positive branding:** Arjan Dijk, Senior Vice President and Chief Marketing Officer at global accommodation reservation firm Booking.com, shared perspectives on how major brands responded to shifting consumer behaviour under the new normal, predicting marketing trends and tourism development as businesses begin to recover. “All marketing activities have to be performance-driven during the pandemic. Going forward, I see huge opportunities for staycations as well as ‘workcations’. I think many of us are thinking about our summer and imagining going on a week’s vacation and staying a week longer to work,” he said.

## teamLab shares artistic journey:

Navigating the confluence of art, science, technology and the natural world, the globally renowned art collective teamLab unveiled its creative philosophies and immersive experiences to the audience at MarketingPulse Online. “[Digital works] can free us from materials and we are no longer stuck in one room. Boundaries are just an illusion that humans make. New ideas both come from and affect old ideas,” a senior teamLab member said.

## Livestream commerce:

At the conference, Eray Li, General Manager of Southern China at Mainland Chinese short-video app Kuaishou (Magnetic Engine), who has also worked at digital giants Tencent, Cheetab Mobile and Alibaba, explained Kuaishou’s strategies and tricks of the trade to seize



the significant opportunities presented by its platform. "There was a user base of 818 million for short videos at the end of last year, accounting for 87% of netizens. The average daily time people spent on short videos exceeded the time spent on instant messaging, video calls, et cetera," he said.

"In 2020, Kuaishou's e-commerce sales were Rmb381.2 billion [US\$58.2 billion], and 84% of its users prefer to follow the recommendations of livestreamers," he added.

#### Cracking Gen Z code:

Timothy Armoo, the founder and CEO of Fanbytes, a leading influencer



marketing agency, shared some of the latest strategies to win the hearts of the young generation through video content, influencer engagement and algorithms on Instagram, TikTok, YouTube and other social media. "Gen Z have short interest spans, not attention spans," he said. "In the past, you needed a big budget to advertise on TV, but the world of social has created a more level playing field where anybody can play – small brands as well as large. But this also means Gen Zs have a lot of influence; in fact, so much influence that any brand that does not take them into consideration is playing a losing game."

## 在瞬息万变的世界中进行营销



香港贸易发展局(香港贸发局)举办的亚洲品牌及营销界高峰论坛(MarketingPulse),今年以线上形式举行,一连两日吸引来自超过50个国家及地区逾21,000观众参与。今年论坛以「Marketing for GOOD」为主题,举行了27场专题研讨会及工作坊,请来全球各地40多位首席营销官、广告界顶尖创作人及数码营销专家等,于论坛期间从多角度深入剖析品牌宣传策略,并剖析疫情新常态下的营销趋势和数码转型的成功案例。

**数码转型下的营销新格局:**在探讨数码转型及营销未来的主题上,曾任Spotify全球增长及营销副总裁的Mayur Gupta,现时是GANNETT-USA Today Network首席策略及营销官。他在论坛上分享了营销团队可以如何借助科技应对消费者的行为转变。「COVID-19疫情为我们带来不少冲击,也同时提醒我们市场营销一直以来的基本步,就是三个P - 决定你的目的(purpose)、在对顾客的承诺(promise)中反映那个目的,以及在产品(product)中符合那个承诺。」另一位讲者香港铁路有限公司商务总监杨美珍则分享了他们如何利用数码科技,加强与客户及社会连系,并畅谈对未来数码转型的独到见解。她表示:「港铁的愿景是令这个城市不断运行,与很多其他地方的运输企业一样,我们也在展开一段智能旅程,帮助社区提升承载力。因此,我们全新的手机应用程序中有许多功能,围绕如何为乘客提供更优质的服务,另一个主要部分是时尚生活资讯,因为许多乘客所期望的已不止是基本的核心服务」。

**建立正向品牌营销策略应对挑战:**Book-ing.com高级副总裁及首席营销官Arjan



Dijk在论坛上剖析品牌在新常态下,如何应对持续变化的消费者行为,并预见经济复苏时期的营销趋势及旅游业的未来发展。「疫情下,所有营销活动都应以销售表现为主导。展望未来,我能预视『stay-cations』和『work-cations』的商机将十分庞大。」

**teamLab的艺术营销之道:**日本知名数位艺术团体teamLab举办的展览一直广受欢迎,团队的创作理念是通过艺术来探索人与自然和世界的新关系,teamLab成员畅谈了团队如何融合艺术、科学、技术、设计和自然界,为世界各地观众带来充满启发性的数码艺术体验旅程,「数字技术让艺术从物质世界中解放出来,超越了界限。人与自然之间没有界限,新的意念源自旧有的,也改变着以往的意念。」

**内地直播和短视频营销潮流:**快手磁力引擎销售华南区负责人李睿曾于腾讯、猎豹移动、阿里巴巴等企业任职,他在论坛上解构了公司的短视频营销策略,如何吸纳庞大的短视频用户,令公司的营销服务收入迅速增长。「截至去年底(中国)短视频

的用户数目是8.18亿,占整体网民的87%,他们每日平均花在短视频的时间多于即时通讯和视像通话等。而在2020年,快手的电商收入则达3812亿人民币,其用户当中,84%也会跟随直播主持的购物推介。」

**Z世代的社交媒体营销要诀:**来自Z世代、国际知名KOL营销专家Fanbytes创办人Timothy Armoo剖析了如何透过Instagram、TikTok、YouTube等社交媒体上的影片内容、KOL互动和演算法,成功让品牌取得Z世代的欢心。他在论坛上表示:「虽然Z世代是三分钟热度,但说到投入时间则是另一回事。昔日要在电视广告花费不少金钱,但社交媒体创造了一个更平等的竞技场,大家都能参与其中,而Z世代发挥着更广的影响力,如果一个品牌没有投其所好,那在这场游戏中赢面很低。」

**传媒查询:**请联络香港贸易发展局传讯及公共事务部:金玲彤 电话: (852) 2584 4514 电邮: christine.kam@hktadc.org



# Want to Make Retail Customers Happy? Give Them a 'Wow' Experience

## K@W



Retailers must create “wow” shopping experiences if they want to satisfy customers and keep them coming back, according to a recent study from Wharton’s Baker Retailing Center and The Verde Group, a global customer experience consultancy.

The survey-based study found that retailers can increase shopper repurchase intent by nearly 60% by consistently delivering a great experience, whether in-store or online. What defines a “wow” depends on the shopper and type of store, but hassle-free customer support is at the top of the list.

Thomas Robertson, a marketing professor who is director of the Baker Retailing Center, said the report offers some good news for an industry bombarded by negative stories about store closures, bankruptcies, and the so-called retail apocalypse.

“This study was all about taking a positive outlook on the retail shopping experience, and to find ways that retailers could enhance that experience and benefit consumers,” he said.

### ‘Surprise and Delight’

The Verde Group surveyed 9,400 consumers and found that what consistently “surprised and delighted” them was exceptionally great service, said CEO Paula Courtney. That great service can be as heroic as a sales associate going above and beyond to help a customer find just the right item, or as mundane as a

clean, well-organized store.

“Whether you’re a specialty retailer or a big box or category killer or a mass merchandiser, whatever your value proposition is, the essence of that value proposition [and] delivering on it seemed to be the No. 1 thing that defined greatness and ‘wow’ for consumers,” Courtney said.

Some of the highest-ranked customer “wows” are:

- Fast, free shipping
- Easy returns
- Problem-free shopping
- Well-stocked inventory
- A great app or website for online shopping
- Attention to detail in packaging

Interestingly, the coronavirus pandemic hasn’t made shoppers any less demanding — or forgiving. If they encounter supply chain problems, staffing issues, and other obstacles that create friction, they simply shop somewhere else.

“What we learned, which is surprising, is that consumers are not giving retailers a hall pass for the pandemic,” Courtney said.

She said retailers need to keep investing in their stores, in their staff, and in great shopper experiences, despite the hardships created by the pandemic. “I absolutely believe that now is not the time to shirk away from delivering ‘wow,’ or delivering on the basics, because customers are more demanding than ever.”

**“Consumers are not giving retailers a hall pass for the pandemic.”**

— Paula Courtney

### A Missed Opportunity

Robertson believes well-trained sales associates are a big part of a successful retail strategy. But those jobs have been slashed in large numbers, replaced by online chatbots, or nothing at all. Customers are left frustrated and feeling the friction, he said.

“I think a major opportunity that is being missed that could help retailers deliver ‘wow’ experiences would be to value professional sales associates,” Robertson noted, adding that he isn’t sure whether those jobs will rebound after the pandemic.

“It really depends on how you’re going to define your business,” he said. A dearth of sales help may be functional for low-cost retailers. “But for others, I think you’d better bring them back. Because otherwise, the in-store experience is going to continue to deteriorate.”

Robertson also dismissed concerns that retail is dying. It’s one of the largest employers in the United States and a major contributor to the gross domestic product. Data show that sales have been rebounding significantly since last year’s pandemic-related plunge.

**“There are winners, there are losers, and things are changing.” “There’s a lot of innovation out there.”**

— Thomas Robertson

E-commerce is teeming with new ideas, such as shopping shows that are now live-streamed on social media platforms like Instagram. Malls are downsizing and reconfiguring physical space more economically. Online retailers are opening stores, offline retailers are getting better at digital, and everyone is trying to adapt.

“If you’re a sophisticated retailer, you realize that and don’t cling to the past,” Robertson said. “You move on to the future, which is always a challenge for any legacy company in any industry.”





## 想要顾客不断回头？那就创造“哇”（Wow）时刻！

**沃**顿贝克零售业研究中心（Wharton's Baker Retailing Center）和全球客户体验咨询公司威尔德集团（Verde Group）最近联手进行的一项研究显示，零售商要想让顾客满意并让顾客不断回头，就必须创造“哇”（Wow!）的购物体验。

这项调查研究发现，无论是在实体店还是在线上，如果能始终如一地提供良好体验，消费者的再购买意愿将会提高近60%。那究竟是什么定义了“哇”体验？这取决于购物者和零售业的类型，但毫无障碍的客户支持是最重要的。

沃顿市场营销学教授、贝克零售业研究中心主任托马斯·罗伯逊（Thomas Robertson）表示，这份报告为零售业——这个被关店、破产和所谓末日来临等负面新闻轰炸的行业——带来了一些利好消息。

他表示：“这项研究的目的是以积极的态度来研究零售购物体验，并为零售商寻找能够增强这种体验和造福消费者的方法。”

### “惊喜和快乐”

威尔德集团的CEO保拉·考特尼（Paula Courtney）说，该研究调查了9400名消费者，发现让他们始终如一感到“惊喜”的是异常出色的服务——服务的范围很广，可以是一个销售助理排除万难穷尽努力帮助顾客找到他心仪的商品，也可以是一家实体店布置的一尘不染和井井有条。

考特尼认为：“无论你是一个专业零售商，还是一个大卖场或是某个品类的专卖店，无论你的价值主张是什么，如何传递你的价值主张的本质似乎是定义客户体验和消费者‘哇’的首要因素。”

一些排名最高的让客户惊呼“WOW”的元素包括：

- 送货快速免费（Fast, free shipping）
- 退货方便（Easy returns）
- 购物流程轻松无障碍（Problem-free shopping）
- 库存完善（Well-stocked inventory）
- 好用的购物App或网站（A great app or website for on line shopping）
- 包装细节完美（Attention to detail in packaging）

另一个发现是，疫情的蔓延并没有让购物者的要求降低，也没有让他们变得更宽容。如果他们遇到供应链问题、人员配备问题和其它造成购物问题的障碍，他们就会迅速转向其它地方购物。

考特尼说：“我们了解到，令人惊讶的是，消费者并没有给零售商发一张‘疫情通行证’”。

她说，无论疫情是否造成了困难，零售商都需要继续投资于他们的商店、员工，并创造良好的购物体验。“我非常确信，现在不是逃避的时刻，你不能因为疫情只提供基本服务而忽略创造‘哇’体验时刻，因为客户的要求比以往任何时候都高。”



“消费者并没有给零售商发一张‘疫情通行证’。”

— 保拉·考特尼

### 错失的机会

罗伯逊教授认为，训练有素的销售人员是成功零售战略的重要组成部分。但这些重要的工作岗位却已经被大量裁员，取而代之的是在线聊天机器人，或者是什么都没有。他说，这样会让顾客感到沮丧，感受到障碍。

罗伯逊指出：“一个可能有助于零售商提供‘WOW’体验的重大机遇正在被错失，那就是对专业销售人员的重视。”他补充说，他不确定这些工作岗位在疫情后是否会重新恢复。

他说：“这真地取决于你将如何定义你的业务。对于低成本零售商来说，缺乏销售帮助可能只是功能性的。但对于其它零售商，我认为你最好让销售员回来。否则，店内的购物体验会继续恶化。”

罗伯逊还驳斥了零售业正在消亡的担忧。零售业是美国最大的雇主之一，也是国内生产总值的主要贡献者。数据显示，自去年的疫情爆发时零售额暴跌以来，目前该行业的数据一直在大幅反弹。

他说：“有赢家，也有输家，情况正在改变。这个行业有很多变化和创新。”

— 托马斯·罗伯逊

电子商务充满了新理念，比如在Instagram等社交媒体平台上直播的购物秀。实体商场正在缩小规模，并更经济地重新配置实体空间。而网络零售商正在开实体店，线下零售商在数字化方面越来越好，每个人都在努力适应新时代。

罗伯逊说：“如果你是一个成熟的零售商，你就会意识到这一点：不要固守过去，要走向未来。但这对任何行业的任何老牌公司都是一个挑战。”





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# Franchisor to Refund US\$57.7 Million to 1550 Burgerim Franchisees and to Pay US\$4 Million in Civil Penalties



By Carl Zwisler, Senior Counsel, Lathrop GPM



**O**n February 16, 2021, the California Department of Financial Protection and Innovation (the “Department”) filed an administrative complaint against a franchisor which it had approved to sell franchises between 2015-2019. The order requires Burgerim to offer refunds of \$57.7 million to 1550 franchise purchasers, only 130 of which opened restaurants by the end of 2018. Burgerim’s Israeli founder, Oren Loni, had fled the U.S. by the end of 2019 for an unknown destination, leaving Burgerim effectively insolvent, and without a staff to help franchisees—they had quit because they weren’t being paid.

How could this happen in a country with so many franchise laws? How could the promoter and company get away with this in California, which has a much-copied franchise law that has been in effect since 1970? Why isn’t the founder in jail? How can the investors get their money back?

In the U.S., before selling a franchise a franchisor is required by the FTC’s Franchising Rule to provide prospective franchisees with a Franchise Disclosure Document (“FDD”) at least 14 days before collecting a payment from the prospect

and before signing a binding agreement with him/her/it. In thirteen states with franchise registration laws, including California, the FDD, which includes the franchisor’s form franchise agreements and the franchisor’s audited financial statements, is submitted to a government agency which reviews the documents to determine whether the FDD responds clearly to all of the requirements set out by the FTC. The agency’s examiner also reviews the franchisor’s financial statements to determine whether the interest of prospective franchisees requires that the franchisor’s registration application be denied. Otherwise, an examiner may require a franchisor to:

- a) Defer collecting initial franchise fees until the franchisor has completed its initial obligations to a franchisee;
- b) Escrow initial franchise fees until initial obligations to the franchisee have been completed by the franchisor; or
- c) Post a surety bond to cover claims of franchisees.

Only after an examiner has approved a franchise registration may a franchisor begin offering franchises in California.



Burgerim seemingly set out to comply with California’s franchise law. It retained a franchise lawyer and registered to sell franchises in California, where it was based, and, later, in other states, where registration was required. It hired a certified public accountant to audit the financial statements that were included in its FDD.

My cursory review of the company’s FDD indicates that they were compliant on their face. That was also the view of the California examiners who ultimately registered the franchise five times.

Reviews of franchise offerings do not involve investigation of the truth of the facts disclosed or representations of the franchisor, unless something suggests that a problem exists.

After reviewing Burgerim’s financial statements, the first California examiner initially requested that Burgerim agree to defer collecting initial fees as a condition of being registered. However, the examiner was persuaded by Burgerim’s counsel to forego that requirement, because Burgerim promised to maintain \$100,000 in a bank account. Still, the examiner did require that Burgerim publish the following “risk factors” in its FDD, which should have caused prospective franchisees to stop and think about their possible purchase decisions:

1. THE FRANCHISOR HAS NOT OFFERED FRANCHISES PRIOR TO THE ISSUANCE DATE OF THIS FRANCHISE DISCLOSURE DOCUMENT THEREFORE, THERE IS NO OPERATING HISTORY TO ASSIST YOU IN JUDGING WHETHER OR NOT TO MAKE THIS INVESTMENT.



## 2. THE FRANCHISOR HAS LIMITED FINANCIAL RESOURCES WHICH MIGHT NOT BE ADEQUATE TO FUND ITS PRE-OPENING OBLIGATIONS TO EACH FRANCHISEE AND PAY OPERATING EXPENSES.

In fact, as FDD Item 20 disclosed, the franchisor had never operated a Burgerim restaurant in the United States or elsewhere.

In its first registration renewal in 2016, the examiner required that Burgerim post a \$250,000 surety bond, and Burgerim complied.

Because California franchise registrations must be renewed every year, the proposed updated FDD must include all material changes that have arisen in the franchise program. Audited financial statements for the most recent fiscal year must be included, and they were provided by Burgerim.

A close reading of the FDD and the financial statements should have raised red flags with examiners, prospects and their advisors, but they apparently never did. The franchise agreement required payment of a 5% weekly royalty, and this was noted in the financial statements. However, the company's revenue did not reflect income from royalties. During Loni's entire tenure as Burgerim's CEO, it is not evident that Burgerim ever collected royalties. Because royalties are the principal, if not only, source of ongoing revenue for most franchisors using a business format/package franchising strategy, it was not surprising that the franchisor ultimately could not meet its obligations.

Franchisors everywhere were wondering how a new franchisor without a single operating unit could possibly sell 1500+ franchises in four years. Some answers should be red flags for future prospective investors.

First, the required initial investment was quite low for a restaurant franchise.

Second, Burgerim arranged financing for franchisees and required no experience and very little net worth to become a franchisee.

Third, Burgerim offered a formal option to allow franchisees to receive a refund of part of their initial fees (for a higher initial franchise fee), and its sales reps orally promised that refunds were available to franchisees, even if they had not purchased the refund option.

Fourth, the Department alleges that Burgerim made inflated oral financial performance representations about the franchise which were not included in Franchise Disclosure Documents. (That would violate the California franchise law, even if the representations were accurate.)

As franchise sales grew, Burgerim generated favorable press which extolled how this was a great concept and the fastest growing franchise in America.

A popular food critic and reality TV star, who calls himself "Foodgod," spurred interest in the concept from investors, and from many consumers who could not wait to try the reimagined hamburger. Ultimately, Loni put "Foodgod" on Burgerim's payroll to promote the brand.

Burgerim seemed like a great ground-floor opportunity for investors. It all seemed to be too good to be true.

It was. No one focused on the soundness of the business or on its sustainability.

In the early years, some franchisees could not obtain financing. Others faced other problems. Burgerim set up a refund program to take care of franchisees who were having these problems. Ultimately, the demand for refunds far outstripped Burgerim's ability to pay them.

### Burgerim Seemed Like a Legitimate Franchise

As a U.S. franchise lawyer, I have been involved in the preparation and registration of FDDs for forty years. In my reading of the original FDD, I did not spot a real problem—that is, anything that was unlawful or would be a barrier to registration of the franchise. Of course, the company was new. It had no franchises in the United States. But, that is no reason to deny a company the right to franchise here, and that has never been a major problem in the last 70 years of U.S. franchising.

Franchise sales laws in the U.S. focus on disclosing material facts to prospects.



They are not designed to stop people from creating new franchise brands or to prevent investors who have been given all material facts from making a decision to invest in a franchise. Burgerim disclosed its total lack of operational experience in the U.S. It disclosed its weak financial condition. It provided audited financial statements each year, which prospects with experienced advisors might have ultimately seen demonstrated that the business was all about selling franchises, and not about operating them. It provided historical information about the number of franchises sold and opened, clearly showing a big difference between the two numbers. Whether the numbers provided were accurate will likely come out at some point in litigation—if Burgerim or its successors ever has enough resources to warrant a franchisee's expense of litigating his/her claims.

The sales and refund program continued for about 3.5 years, at which point the company was over-committed to making refunds. In its citation, the Department now alleges that Burgerim should have disclosed not just the fact of verbally promising refunds when the promises were not included in FDDs, but also that Burgerim's failure to timely make refunds was an omission of a material fact which should have been disclosed in the company's FDD.



In late 2019, stories broke in a restaurant industry publication showing rampant problems in the chain. By that time, Oren Loni, had fled the country without leaving a forwarding address. (It turns out that he had previously fled Israel as



another franchise that he had started was collapsing.) The company's staff had not been paid, and had stopped working. Phones were not answered, and emails were not returned. The company's remaining officers hired a restructuring executive, and was considering filing for protection under U.S. bankruptcy laws. A new person stepped in to try to resolve claims, but the claims continued to grow.

Then, the popular press learned about the problem. Senators and franchising critics wanted to know why this had happened. Some claimed that lax U.S. franchise regulations allowed it to happen.

The Department filed its Complaint and Order more than a year after Loni had fled the country and Burgerim had essentially stopped operating as a franchisor. Although the sanctions imposed by the Department are daunting, at this point, it seems like an empty gesture. Although Loni is alleged to have been the leader of the scheme, no one has alleged that he absconded with any significant amount of money. He seems to have been a charming salesperson, but an inept business leader. Someone intent upon committing fraud would surely have thought of a way to make money from it. But, it is not evident that Loni did.

Lawyers for jilted franchisees have been trying to find Loni for several years. The Department has not yet arranged for the filing of a criminal action against Loni or against any of the Burgerim entities. If Loni is ever indicted and located, he would need to be extradited to face charges in California. However, even if that were to happen, does he have the resources to repay the \$55,707,244 in initial franchise fees that the Department alleges were collected by Burgerim? Or the \$4 million in civil fines the Department has imposed? It is unlikely that Burgerim has the resources to make refunds to franchisees or to pay the penalties demanded by the Department. Franchisees hoping to recover any of their investments are still tied to the

ultimate success of the brand, which is now being run by one of its more successful franchisees.

This is a very sad situation for the investors in 1550 Burgerim franchises, their families and their creditors. Something should be done to stop this from ever happening again; but what should that be?

U.S. franchise sales have effectively prevented this type of scandal for 50 years, but they seem to have failed this in the case of Burgerim. Burgerim may be an anomaly, but many are persuaded that there should be some way to regulate against this happening again. Perhaps some small changes in current U.S. franchise laws would make it less likely that there will be another Burgerim.

#### **If regulatory remedies are required, what shape might they take?**

At least three types of regulations have been adopted or proposed in some countries which might have addressed some of the problems exemplified by the Burgerim debacle.

First, some commentators have recommended that franchise laws require prospective franchisees to retain a franchise lawyer or other experienced franchise advisor before they are allowed to sign a franchise agreement. One bill proposing that has been introduced in the Illinois legislature. A similar measure has been proposed to the Parliament of the European Union by one respected commentator.

Second, national franchise laws in several countries, and the European Franchise Federation's Code of Ethics require a franchisor to have at least one year of experience operating an outlet of the type to be franchised before franchising may begin. A partial list of those countries

includes China, Indonesia, Italy, Romania, Saudi Arabia, and Vietnam. Several Burgerim franchisees have told reporters that the operating procedures that the franchisor prescribed were too complicated and caused problems for franchisees when the restaurants were crowded. If Burgerim had operational experience, it may have addressed these problems before it began franchising.

Third, several U.S. state business opportunity sales laws require the posting of a surety bond if a business opportunity seller promises to refund payments if an investor is unhappy with the investment. A franchisor as concerned about complying with the letter of the law as Burgerim seems to have been may have been deterred from making moneyback guarantees to franchisees if it had to pay for a surety bond to cover its potential liability to franchisees for the duration of its refund guarantees.

Despite these possible regulatory "fixes," the rarity of the problems that occurred in the Burgerim saga suggests that significant changes to U.S. franchise laws are not needed. More education for prospective franchisees to help them better understand the significance of the information that they are given in FDDs may be the best resolution of all.

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# 特许人将向1550名Burgerim加盟商退还5770万美元并支付400万美元的民事罚款



2021年2月16日，加利福尼亚州金融保护与创新部（以下称“部门”）对一家（汉堡连锁Burgerim）特许经营公司提起了行政申诉，该公司已在2015-2019年之间被它批准在加州出售特许经营权。该行政申诉求Burgerim向1550个加盟商提供5770万美元的退款。其中，截止2018年底，只有130个加盟商开设餐厅。Burgerim的以色列国籍创始人Oren Loni于2019年底逃离了美国，前往一个不知名的目的地，只留下了无力偿付债务的公司。它连一个员工来帮助加盟商也没有-他们之所以辞职是因为他们没有得到报酬。

在一个拥有如此多的特许经营法的国家，这事怎么可能发生呢？加利福尼亚州的特许权法律自1970年开始生效，因此受到了广泛复制。Burgerim创始人为什么不入狱？投资者如何取回他们的钱？

在美国，在出特许经营权之前，美国联邦贸易委员会Federal Trade Commission简称“FTC”的《特许经营规则》要求在向潜在加盟商收取付款之前以及与他们签署有约束力的协议之前至少14天，向潜在的加盟商提供特许经营披露文件“FDD”。在包括加利福尼亚州在内的13个具有特许经营注册法的州中，FDD（包括特许人的特许经营协议和特许人的经审计财务报表）被提交给政府机构，由该机构审查这些文件，以确定FDD是否明确响应所有FTC规定要求。该机构的审查员还审查了特许人的财务报表，以确定潜在加盟商的利益是否要求拒绝特许人的注册申请。否则，审查员可能要求特许人：

a) 将收取的初始特许经营费用（加盟费）推迟到特许人完成对加盟商的初始义务之后；

b) 代管初始特许经营费，直到特许人对被特许人的初始义务完成为止；或者。



c) 取得履约保证以支付加盟商的索赔。

只有在审查员批准了特许经营注册后，特许人才能在加利福尼亚州开始销售特许经营权

伯格林（Burgerim）似乎着手遵守加利福尼亚州的特许经营法。它保留了一名特许经营律师，并在其总部所在的加利福尼亚州以及后来需要注册的其他州注册了出售特许经营权。它也聘请了一名注册会计师来审核其FDD中包含的财务报表。

我对Burgerim公司的披露文件的粗略评论表明，他们表面上很合规。这也是加利福尼亚州审查员的意见，他们批准了Burgerim的五次注册。对特许经营公司的审查不涉及调查所披露事实的真实性或特许人的陈述，除非有迹象表明存在问题。在审查了Burgerim的财务报表后，第一位加利福尼亚州审查员最初要求Burgerim同意推迟向加盟商收取初始费用（加盟费），作为注册的条件。但是，Burgerim的律师劝说考官审查员放弃该要求，因为Burgerim承诺在银行帐户中保留100,000美元。尽管如此，审查员仍然要求Burgerim在其披露文件中发布以下“风险因素”，这应该会使潜在的加盟商慢下脚步，再谨慎考虑他们的可能购买决定：

1. 在本特许经营连锁披露文件签发之日之前，从没有提供过特许经营权销售，因此没有任何经营历史可协助您判断是否进行此项投资。

2. 本特许人的财务资源有限，可能不足以支付其对每个加盟商和支付经营费用的预付义务

实际上，正如Burgerim披露文件项目20所披露的，特许人从未在美国或其他地方经营过Burgerim餐厅。

在2016年首次续注册时，审查员要求Burgerim交纳25万美元的保证金，Burgerim则予以遵守。由于加利福尼亚州的特许经营注册必须每年更新，因此建议的更新的披露文件必须包括特许经营计划中发生的所有重大变更。必须包括最近一个会计年度的经审计的财务报表，这些报表由Burgerim提供。

其实，仔细阅读披露文件和财务报表应该会给审查员，潜在加盟商及其顾问引起怀疑，但是显然他们从来没有这样做。特许经营协议要求每周支付5%的权益金或管理费，这在财务报表中已注明。但是，该公司的收入并未反映出权益金或管理费的收入。在创始人劳尼（Loni）担任Burgerim首席执行官的整个任期内，尚不清楚Burgerim曾经收取过权益金或管理费。由于权益金或管理费是大多数特许经营公司持续收入的主要来源，因此Burgerim最终无法履行其义务也就不足为奇了。

许多同行都在想，如果连一个门店都没有，一个新的特许经营品牌怎么可能在四年内卖出1500多个特许经营权。对于未来的潜在加盟商或投资者而言，以下的一些答案应该是借鉴的危险信号：

首先，这餐饮连锁店所需的初始投资非常低。

其次，Burgerim为加盟商安排了融资，且他们不需要任何经验，只需要很少的净资产就可以成为加盟商。

第三，Burgerim提供了一种正式选择，允许加盟商收取部分初始费用的退款（前提：以较高的初始特许权费用），并且其销售代表口头承诺即使加盟商没有购买退款选择权，也照样可以收取部分初始费用的退款。





第四，加利福尼亚州金融保护与创新部声称，Burgerim对特许经营进行了夸大的口头财务业绩表述，但特许经营披露文件中并未包括这些表述。（即使陈述是准确的，这也会违反加利福尼亚州的特许经营法。）

随着Burgerim特许经营销售的增长，Burgerim获取了有利的媒体报道，各个都推崇这是一个伟大的概念以及美国增长最快的特许经营品牌。一位自称为“Foodgod”的倍受欢迎的美食评论家和真人秀明星激发了投资者和许多迫不及待想尝试重新构想的汉堡包的消费者对该概念的兴趣。最终，创始人罗尼（Loni）在Burgerim的工资单上放了聘请了“Foodgod”为Burgerim来推广该品牌。

对于投资者来说，Burgerim似乎是一个绝佳的机会。一切似乎都太好了，难以置信。真的是便宜没好货。没有人关注这业务的稳健性或可持续性。

在早期，一些加盟商无法获得融资。其他人面临其他问题。Burgerim设立了退款计划，以照顾遇到这些问题的加盟商。最终，对退款的需求远远超过了Burgerim的支付能力。

### Burgerim看起来合法

作为一名美国特许经营律师，我从事披露文件的准备和注册已有40年了。在阅读Burgerim的原始披露文件时，我没有发现真正的问题——即任何违法或会成为注册其特许经营权障碍的东西。当然，这间公司是新的。它在美国没有加盟商。但是，这没有理由拒绝它在美国经营特许经营生意，这在美国特许经营的70年中从来不是一个主要问题。

美国的特许经营销售法着重于向潜在加盟商披露实质性事实。它们的目的是阻止人们创建新的特许经营品牌，也不是为了阻止已经掌握了所有实质性事实的投资者做出投资特许经营的决定。Burgerim透露其在美国完全缺乏运营经验。它透露了其财务状况不佳。它每年提供经过审计的财务报表，有经验的顾问可能最终看到的前景表明，该业务完全是出售特许经营权，而不是经营特许经营连锁业务。它提

供了有关已售出和已开业的特许经营权数量的历史信息，清楚地表明了这两个数字之间的巨大差异。

Burgerim的销售和退款计划持续了大约3.5年，此时公司已过度承诺退款。加利福尼亚州金融保护与创新部现在在引证中称，Burgerim不仅应披露口头承诺退款（当承诺不包括在披露文件中时）的事实，而且Burgerim未能及时进行退款是对本应忽略的实质性事实的遗漏。

在2019年末，一家餐馆行业出版物报道了Burgerim连锁店中普遍存在的问题。届时奥伦·洛尼（Oren Loni）已逃离美国而未留下转寄地址。（事实证明，他因为创办Burgerim之前有另外一个特许经营品牌崩溃了，才会逃到美国的）。Burgerim公司的员工没有得到报酬，并且已经停止工作。公司没有人接听电话，也没有返回电子邮件。该公司的其余经理级人员聘请了一名重组高管，并正在考虑根据美国破产法申请保护。过后，一个新人介入尝试解决索赔，但是索赔数量继续增长。然后，大众媒体开始关注这个问题。许多参议员和特许经营评论家想知道为什么会这样。有人声称宽松的特许经营法规允许这种情况发生。

罗尼（Loni）逃离美国一年多后，加利福尼亚州金融保护与创新部提出了投诉。Burgerim基本上停止了扮演特许经营人的角色。尽管该部所施加的制裁令人生畏，但就目前而言，这似乎是一个空洞的手势。尽管据称洛尼曾是整个“阴谋”的负责人，但没有人声称他潜逃了很多钱。他似乎是一位拿手的销售员，但他不是生意头脑厉害的人。意图进行欺诈的人肯定会想到一种从中牟利的方法。但是，Loni并没有做到。

被欺骗的加盟商的律师多年来一直试图寻找Loni。加利福尼亚州金融保护与创新部尚未安排对Loni或任何Burgerim实体子公司提起刑事诉讼。如果罗尼（Loni）曾被起诉并被定罪，他将需要被引渡以面对在加利福尼亚州的指控。但是，即使抓到了罗尼（Loni），他是否有资源偿还55,707,244美元的初期特许经营费，或是该部门已处以400万美元的民事罚款？Burgerim不太可能有资源向加盟商退款或支付该部门要求的罚款。



希望收回其任何投资的加盟商仍与该品牌的最终成功息息相关，该品牌目前由其更较成功的加盟商之一经营。

对于那群1550位加盟商，其家人和债权人而言，这是非常悲惨的情况。我们应该采取措施阻止这种情况再次发生。但是那应该是什么？

在美国，特许经营销售有效地避免了此类丑闻的发生，已有50年的历史了——唯独Burgerim没有做到这一点。Burgerim可能是一个反常现象，但许多人认为应该有某种方法可以防止这种情况再次发生。现行美国特许权法律中的一些细微变化也许会使出现另一个Burgerim的可能性降低。

### 如果需要监管补救措施，它们将采取何种形式？

在某些国家中，至少已经采用或提议了三种类型的法规，这些法规可能已经解决了以Burgerim大崩溃为例的某些问题。

首先，一些评论员建议，特许经营法要求准加盟商在允许他们签署特许经营协议之前，必须聘请特许经营律师或其他经验丰富的特许经营顾问。伊利诺伊州立法机关已提出一项提案。一位受人尊敬的评论员已向欧洲联盟议会提出了类似措施。

其次，一些国家/地区的国家特许经营法以及欧洲特许经营联合会的道德守则要求特许经营者在开始特许经营之前，必须拥有至少一年的经验，经营该类型的特许经营网店店面。这些国家的部分清单包括中国，印度尼西亚，意大利，罗马尼亚，沙特阿拉伯和越南。Burgerim的许多加盟商告诉记者，其特许人规定的操作程序过于复杂，在餐馆拥挤时给他们造成了麻烦。如果Burgerim具有运营经验，那么在开始特许经营之前，它可能已经解决了这些问题。

第三，在美国的好几个州，如果特许人承诺在加盟商对投资不满意的情况下退还款项，这些州的商机销售法都要求保证债券。那Burgerim很有可能会被阻止做出此类保证。

尽管有这些可能的监管“解决方案”，但在Burgerim传奇中发生的问题很少，这表明不需要对美国特许经营法律进行重大修改。对潜在的加盟商进行更多的培训，以帮助他们更好地了解披露文件中提供的信息的重要性，这可能 是所有解决方案中最好 的解决方案。





# HIDDEN VALUE HIDDEN RISK

By Tyler Capson, Managing Director – Asia, EverEdge



**A**s the father of modern management theory Peter Drucker famously stated 40-years ago, “You can’t manage what you can’t measure”.

Today, intangible assets (things like data, content, software code, brands, confidential information, inventions, industrial know-how, and design rights) today account for more than 90% of value for companies listed on the S&P500 yet these assets are essentially ignored by modern accounting standards.

In a franchise business model, where value is driven by brand, data, systems and processes and relationships, this can create significant issues when it comes to identifying new opportunities and hidden risks – along with recognizing the true value of the franchise.

A large driver for this is that accounting standards like GAAP or IFRS were essentially designed for an industrial age economy and consequently they almost completely ignore intangible assets, lumping them under the amorphous term “good will” or recording them solely at cost.

The result is yawning chasm between company accounts and the reporting based on those accounts, and the reality of what is really driving value, growth, and risk within an organization. This behaviour also creates or hides major risks and opportunities.

## Shifting the balance

The relative absence of intangible assets from the balance sheet was manageable 40 years ago, when they accounted for only 17% of all company value. But in the last two decades the portion of value attributable to intangible assets has increased significantly, which means these assets can no longer be ignored. However, many companies still refuse to learn from the mistakes of others who have mismanaged their intangible asset portfolios to their peril.

A stark example of this can be seen in the Nortel bankruptcy filing in 2009, the pre-eminent case study for demonstrating the fact that there is often no correlation between accounting treatment of intangible assets and actual value in market. In this instance, when Nortel filed for bankruptcy its various business units and tangible assets were sold for \$3.2 billion. The last assets to be sold were the company’s 6000 patents, which in a quirk of accounting rules were recorded on Nortel’s balance sheet at cost for \$31 million. While the frothiest market estimate of their value was \$1 billion, most analyst estimates were far south of this.

These assets were eventually sold for \$4.5 billion – 145X the value recorded on the balance sheet and were ultimately worth more than the value of the entire rest of the company. A great result for the company’s creditors, but you have to ask whether Nortel would have entered bankruptcy at all if its directors and management team had spent more time actively managing their intangible assets to leverage the portfolios true potential.

In a franchise model, where the networks growth and profitability is tied to its intangible assets, it is critical that both franchisors and franchisees understand how to identify, manage, and recognise which assets are driving growth and



profitability so that these assets are protected and their value is not lost or diluted.

### Why conventional valuation methods don't work for intangible assets

Understanding how to accurately value intangible assets is an area that remains poorly understood.

Conventional accounting standards have not evolved to effectively value intangible assets in the same way as tangible assets. The result is that traditional valuation methods such as cost-based analysis or discounted cash flow (DCF) that work for assets such as real estate or plant and equipment either simply don't work (cost base) or are subject to major challenges which applied to intangible assets.

In the case of cost base approaches there is effectively no correlation between the cost and the value of an intangible asset. In some instances, you can spend \$10M on R&D and get nothing; in other instances, you can spend \$100K on R&D and develop intangible assets worth billions.

Income side or DCF based approaches they work well for assets that have stable, predictable revenues and costs. However, the moment the future starts to look different from the past, then the accuracy of Discounted Cash flow Analysis rapidly begins to break down. Unfortunately, in most instances this is precisely the situation where intangible assets are most dominant: new products, new technologies, new markets, new business models etc. In short utilizing a conventional net present value (NPV) approach for new intangible asset-rich projects (in isolation of other triangulating factors) is fraught since one thing we can guarantee is that the future will not reflect the past or current situation when it comes to intangible assets.

At this point, conventional valuation theory would suggest looking at comparatives, but this too faces major issues. By definition, intangible assets are more or less unique and differentiated – meaning establishing a benchmark or comparator is extremely challenging. Likewise, there is often no liquid market to price-seek against.



In short, any valuation of intangible assets that draws primarily on conventional (tangible or fixed asset) valuation methodologies should be treated with extreme caution. There is a high probability that the valuation could be out by several orders of magnitude ( $10x > 1000x$ ).

Take for example, Instagram. At the time of Instagram's sale to Facebook, the company was 20 months old, had no revenue, effectively no assets and 12-employees. A traditional Cost or Cash Flow Basis methods would have said this company was worth \$0 yet it was sold to Facebook for \$1 billion. Mark Zuckerberg is not stupid, no one pays \$1 billion for something without value, the value was there, in Instagram's intangible assets, it's just the conventional approach to these assets, renders them (and their value) invisible.

Fast forward to today, and Bloomberg Intelligence estimates that Instagram would be worth more than \$100 billion if it were its own company and not a Facebook division. If true, Instagram's valuation would be 100 times greater than the \$1 billion Facebook paid for the photo-sharing service in 2012, which provides an excellent example as to why traditional valuation methods just don't hold up when it comes to intangible assets. In fact, a recent Harvard Business Review article effectively proclaimed the complete irrelevance of conventional company accounts for digital companies. We would argue this goes further to virtually every company today (with the exception of real estate).

### How to value intangible assets

While complex, there are methods of valuing intangible assets that can reliably and accurately predict future value. These methodologies work off the general principle that a strong intangible asset position delivers a sustainable competitive advantage that translates into market share or margin premiums that significantly increase the value of the business.

We recently saw this in action when we were asked to provide a leading tourism company and the largest provider of recreational vehicles for rent globally, with an independent valuation to support a joint venture it was entering into. Rather than purely looking at financial performance, the valuation provided an accurate view of the value of the company's intangible asset portfolio, including its data, content, know-how, process, trade secrets and other information that made up the value of its technology. The value of the company's intangible assets offset







what would have been a much higher cash contribution had the company not been able to recognize the value these assets would create for the JV over time.

In a franchise model, an intangible asset valuation will involve the assessment of a much broader range of factors than are generally included in a traditional valuation. This includes things like the underlying quality of the intangible assets (for example, the strength of the brand; nature of the systems and processes; what data is held by the franchise and how current and relevant it is etc), as well contextual factors such as the leverage or benefit those intangible assets will deliver to franchisors.

It is also worth noting that with intangible assets that the whole is typically worth more than the sum of its parts, so analysis of the interaction of all these assets grouped together is essential. This is something that is far beyond the skills and expertise of most valuation practices. In an intangible asset valuation, a broader range of factors is typically reviewed, and the resulting report will tend to be more discursive, featuring a lot more prose and analysis, with fewer numbers – the aim of the report being to build a solid interlocking framework of multiple, well researched factors that together produce a numerical value that can be relied on.

By way of example: we were recently asked by a start-up to complete a valuation for its new technology and business model around a major infrastructure play. The founders needed to raise \$100M. A traditional valuation from a major accounting firm generated a number around \$40M, which made the raise non-viable. The CEO approached us for a critique. It rapidly became clear that the initial valuation created using traditional methodologies hadn't captured anywhere near the value of the venture, so we prepared a new comprehensive valuation, which valued the company at \$200M.

It would be fair to say the reaction from the accounting firm was incredulity – no venture could be worth this much they argued. However, entrepreneurs don't typically take no for an answer and this founder was no different. He took our valuation to a major investment bank, who enthusiastically adopted the valuation as the center piece of the investment memorandum.

The result: the company raised \$400M at a \$200M pre-money valuation in record time.

And these are not isolated instances. In another example, we worked for a company owner who was selling his financial services firm after 30 years. The investment bank provided a valuation of 4X EBITDA, which the owner did not feel fairly reflected the value of his company so asked us to also prepare a new valuation.

As part of this process, we identified a highly valuable intangible asset (data) that was not listed on the balance sheet and had not been recognized in sale process to date. We prepared an Intangible Asset Story that highlighted the value of the data and identified and targeted buyers who we believed would pay significantly more for the data than what the operating company had been valued at. The result: the company was purchased for 32X EBITDA by a strategic buyer who saw the value in the data that had been identified.

What these examples help to highlight is that intangible assets are really the only lever that can move enterprise value beyond cash flow multiples. To fail to actively manage – or account for – intangible assets is to effectively ignore your fiduciary duties as a director or manager. This includes ensuring that intangible assets are factored into any valuation in a way that accurately reflects the company's true worth.

While any valuation exercise needs to be grounded in some form of numerical analysis, it is critical that new qualitative methods are also adopted. Traditional income (DCF) and cost approaches risk becoming lost in the numbers and producing results that bear little resemblance to the reality of value.

For franchisors and franchisees, an intangible asset valuation will provide a robust, defensible, business-focused report that contextualizes the value of the most valuable and important assets the franchise owns. It will articulate where value lies and can provide direction around which assets are driving growth and profitability for the franchise.



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# 发现无形资产的价值



美元的价格出售。最后要出售的资产是该公司的6000项专利。这在北电的资产负债表上以3100万美元的成本进行了记录。其实，其市场价值的最保守估计是10亿美元。这些资产最终以45亿美元出售，是资产负债表上记录价值的145倍，最终价值超过公司其余部分的价值。您必须要问，如果北电公司的董事和管理团队花更多时间积极管理其无形资产，以充分利用投资组合的真正潜力，是否还会让公司彻底陷入破产。

在特许经营模式中，网络的增长和获利能力与其无形资产挂钩，至关重要的是，特许经营者和被特许经营者都必须了解如何识别和管理哪些资产正在推动增长和获利能力，以便保护这些资产及不让它们失去或者降低价值。

## 为什么传统的估值方法不适用于无形资产

了解如何准确地对无形资产进行估值仍然是一个知之甚少的领域。

常规会计准则尚未完善一种适应无形资产特殊性的有效的估值方法。结果是，传统的估值方法（例如基于成本的分析或现金流量折现法（DCF））对诸如房地产或厂房和设备之类的资产起作用，但对无形资产却根本就不起作用，或者会受适用性的主要挑战。

在采用成本基础法的情况下，成本与无形资产的价值之间实际上没有关联。在某些情况下，您可以在研发上花费1000万美元，却一无所获。在其他情况下，您可以在研发上花费10万美元，开发价值数十亿美元的无形资产。

基于收入方或基于DCF的方法，它们对于具有稳定且可预测的收入和成本的资产非常有效。但是，从未来开始看起来与过去不同的那一刻起，现金流量折现分析的准确性迅速开始下降。不幸的是，在大多数情况下，这恰恰是无形资产占主导地位的情况：新产品，新技术，新市场，新商业模式等。总之，对于新的无形资产丰富的项目使用常规的净现值（NPV）方法（孤立于其他三角因素）充满了困惑，因为我们明知，就无形资产而言，未来不会反映过去或当前的状况。

在这一点上，传统的估值理论建议采用比较法，但这也面临重大问题。根据定义，无形资产或多或少具有独特性和差异性，这意味着建立基准或比较具有极大的挑战性。同样，往往没有流动的市场可以寻求基准价格。



正如现代管理理论之父彼得·德鲁克在40年前的名言：“你不能管理你无法衡量的东西”。

如今，无形资产（如数据、内容、软件代码、品牌、机密信息、发明、工业技术以及设计权）占标准普尔500指数上市公司价值的90%以上，但这些资产基本上被现代会计准则所忽视。

在特许经营业务模式中，公司的价值由品牌、数据、系统、流程和市场人脉关系驱动，在识别新机会和隐藏风险，以及同时认识到特许经营权的真正价值方面，这可能会产生重大问题。造成这种情况的主要原因是，GAAP美国通用会计准则或IFRS国际财务报告准则之类的会计准则本质上是为工业时代的经济而设计的，因此它们几乎完全忽略了无形资产，将其归入不确定的术语“商誉”或仅以成本记录。

结果是公司的财务报道与公司实际上的基于其无形资产运作而创造的价值之间出现了差异。这种情况还会创造重大机遇或隐藏重大风险。

## 转移平衡



40年前，资产负债表中无形资产的相对缺乏不是大问题，因为当时无形资产仅占大多数公司总价值的17%。但是在过去的二十年中，无形资产的价值份额显著增加，这意味着这些资产不再被无足轻重。但是，许多公司仍然不吸取其他公司的教训。

在2009年NORTEL北电申请破产的案例中，可以看到一个明显的例子。这是一个杰出的案例研究，旨在证明无形资产的会计处理与市场实际价值之间通常没有相关性。在这种情况下，北电申请破产时，其各个业务部门和有形资产就以32亿



简而言之，对任何主要采用传统（有形或固定资产）估值方法作出的无形资产估值，都应格外谨慎对待。估值误差很可能超出几个数量级（10倍至1000倍）。

以Instagram照片墙为例。将Instagram出售给Facebook时，该公司成立仅20个月，没有任何收入，实际上没有资产，只有12名员工。按照传统的成本或现金流量基础方法，该公司的价值为0美元，但却以10亿美元的价格卖给了Facebook。马克·扎克伯格（Mark Zuckerberg）并不愚蠢，没有人以10亿美元的价格买下没有价值的东西，那里的价值就存在于Instagram的无形资产中。

快进到今天，彭博资讯（Bloomberg Intelligence）估计，如果Instagram是自己的公司而不是Facebook部门，那么其市值将超过1000亿美元。如果属实，Instagram的估值将比Facebook在2012年为Instagram照片共享服务支付的10亿美元高100倍，这提供了一个很好的例子，说明了传统的估值方法为什么在无形资产方面不成立。实际上，《哈佛商业评论》最近发表的一篇文章有效地宣告了传统公司账目与数字公司完全不相关。我们认为，如今几乎所有公司（房地产除外）的影响都进一步扩大。



举例来说：一家新兴公司最近要求我们完成围绕主要基础设施领域的新技术和商业模式的评估。创始人需要筹集1亿美元。一家大型会计师事务所的传统估值费用得出了约4000万美元的数字，这使得募集活动无法进行。首席执行官请我们提出评价。我们很快就清楚地发现，使用传统方法得出的初始估值没有体现出该合资企业的价值，因此我们准备了一个新的综合估值，使该公司的估值为2亿美元。可以公平地说，该大型会计师事务所大吃一惊。但是，企业家通常不会随意放弃。新兴公司的老板将我们的估值带给了一家大型投资银行，该银行热情地将估值作为投资备忘录的核心内容。结果该公司在创纪录的时间内以2亿美元的融资前估值筹集了4亿美元。而且这些不是孤立的实例。

在另一个示例中，我们为一家公司所有者工作，该公司所有者在30年后出售了他的金融服务公司。该投资银行提供了4倍EBITDA税息折旧及摊销前利润的估值，但所有者认为该估值不能正确反映其公司的价值，因此要求我们也准备新的估值。作为此过程的一部分，我们确定了一种极有价值的无形资产数据，但是该无形资产未在资产负债表中列出，并且迄今为止尚未在销售过程中确认。我们编写了一个无形资产故事，重点介绍了数据的价值，并且确定了目标买家，我们认为他们愿意为数据支付的费用要比运营公司的估值高得多。结果该公司被战略买家以32倍EBITDA的价格收购，后者看到了已确定数据中的价值。

这些例子有助于强调的是，无形资产实际上是使企业价值超越现金流倍数的唯一杠杆。无法积极管理或解决无形资产就是严重忽略了您作为董事或经理的职责，这包括确保无形资产以准确反映公司真实价值的方式纳入任何估值。

尽管任何估值活动都需要以某种形式的数值分析为基础，但也必须采用新的定性定量方法，这一点至关重要。传统收入（DCF）和成本方法有可能会出错，并产生与价值现实不太相似的结果。

对于特许人和被特许人，无形资产评估将提供一份稳健的、可论证的、以业务为中心的报告，该报告将特许经营所拥有的最有价值和最重要的资产的价值具体化，它将阐明价值所在，并可以为资产推动特许经营增长和盈利的方向提供指导。

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## 如何评估无形资产

尽管很复杂，但是有一些评估无形资产的方法还靠得住，可以准确地预测未来价值。这些方法不符合通用原则，即强大的无形资产头寸可提供可持续的竞争优势，从而转化为市场份额或保证金溢价，从而显著提高企业价值。

最近，我们被要求向一家领先的旅游公司和全球最大的休闲车出租公司提供服务，并对其独立估值以支持该公司即将成立的合资企业时，我们看到了这一点。估值并不仅仅是查看财务绩效，而是提供了该公司无形资产投资组合价值的准确视图，包括其数据、内容、专有技术、流程、商业秘密以及构成其技术价值的其他信息。该公司无形资产的价值（包括随着时间的推移为合资企业创造的价值）抵消了该公司一大部分的投资额。

在特许经营模式中，无形资产评估将涉及比传统评估范围更大的因素评估，这包括无形资产的基本质量（例如品牌的实力、系统和流程的性质、特许经营权持有者有哪些数据以及该数据的最新性和相关性等）以及相关的背景因素，例如这些无形资产将如何让特许人受益。

还值得注意的是，对于无形资产而言，其价值通常超过其各个部分的总和，因此，分析归为一类的所有这些资产的相互作用至关重要。这远远超出了大多数估值实践的技能 and 专长。在无形资产评估中，通常会审查更广泛的因素，并且最终的估值报告将趋向于涉及面广泛，具有更多的关联和分析功能，且呈现的数字分析更少，该报告的目的是建立一个牢固的连锁框架，利用多个经过充分研究的因素共同产生可以依据的数值。





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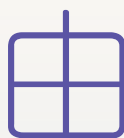


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CCFA苏霜副秘书长就中国特许经营的发展现状与趋势做了“数字化特许经营：完善体系 增进融合”的主题演讲，通过中国连锁经营协会的特许调查显示，过去一年受疫情影响，特许经营百强品牌的总销售收入呈现下降，但店铺总数仍有增长，特许经营各行业的头部企业加快市场

布局。特许企业在数字化转型与升级过程中，中台建设成为头部企业当下的重要工作；有了数据基础将为跨行业间的联合营销与企业间跨界融合提供必备条件。

大会上，特别邀请到新加坡特许经营专家、爱威思特许经营顾问公司总裁江进兴先生、英国特许经营协会总裁Pip Wilkins女士、埃及特许经营协会主席暨世界特许联合会秘书长Hatem Zaki先生对本国特许经营现状做了视频介绍，受到与会代表的好评。

会议期间，召开了“首届中国服务业连锁品牌发展峰会”，CCFA裴亮会长深入分析了如何用连锁化和数字化助力生活服务业高质量发展。

本次会议活动持续了两天半，从星巴克、首旅如家、小佩宠物、饿了么的访学开始，另配有全渠道建设、门店拓展运营、私域流量、会员营销、顾客体验、人力资源与财税等9个平行论坛，还有两场早自习，一场夜话。会场还布置了一站式数字化解决方案与美好生活服务展示两个展示区，便于参会代表直观快速了解数字化特许经营全貌。



# CCFA's Annual China Franchise Conference

The annual China Franchise Conference (held over the period June 28-30, 2021) was organized by the China Chain Store & Franchise Association (CCFA). It drew more than a thousand delegates from over 400 companies to the venue in ultra-modern Shanghai.

CCFA's Deputy Secretary-General Miss Su Shuang gave a keynote speech on the development status and trend of franchising in China. Her presentation is entitled: "Digital Franchising: Improving the System and Enhancing Integration". The franchise survey conducted by CCFA indicated that the franchise fraternity has been affected by the epidemic in the past year. The total sales revenue of the top 100 brands has declined, but the total number of stores is still growing. In response, leading franchise companies in various industries have accelerated the execution of their strategic plans. In the process of digital transformation and the upgrading of franchised companies, constructing the data middle platform has become an important task for leading companies. Once they are equipped with the right data, they then have the necessary conditions for cross-industry joint marketing and cross-industry integration.

At the conference, Mr. Albert Kong, a Singaporean franchise expert and Founder/CEO of Asiawide Franchise Consultants, Ms. Pip Wilkins, Chief Executive of the British Franchise Association, and Mr. Hatem Zaki, Chairman of the

Egyptian Franchise Association and Secretary General of the World Franchise Federation, were invited to comment on the current state of franchising in their own country. The video presentations they made were very well received by the participants.

During the conference, the "First China Service Industry Chain Brand Development Summit" was held. CCFA Chairman Mr. Pei Liang analyzed in depth how to use chain operations and digitalization to promote the high-quality development of the lifestyle service industry.

The energy-charged conference lasted for two and a half days, starting with the store visits to Starbucks, BTG Home Inns, Xiaopei Pet, and Ele.me. Many activities were simultaneously taking place including 9 parallel fora ranging from human resources, finance and taxation, as well as two morning self-study sessions and one evening fireside talk. The venue was also equipped with two display areas, one-stop digital solutions, etc., to facilitate the participation and quick comprehension of all delegates especially concerning digitalization in franchising.



Hatem Zaki



Pip Wilkins



Albert Kong





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www.thailandfranchising.com



### The 17th Thailand Franchise & Business Opportunity (TFBO 2021) is returning again!

**T**FBO, the most prominent and the most effective platform for franchise brand owners and investors in Thailand. This year, the show will be held on Oct 20 - 23, 2021 at BITEC, Bangkok.

Despite the prevailing Covid 19 pandemic and no international visitor, the show is expected to draw more than 7,000 quality investors/inventors, including ex-pats living in Thailand.

This year, the show will be more than 150 exhibitors showcasing all most ten business franchise categories;

- Vending Machines and Laundry Business
- Food and Beverage
- Coffee and Tea
- Bakery, Ice Cream & Dessert
- IT, Digital & Printing
- Car Care Services
- Services & Entertainment
- Fashion, Retail & Convenient Store
- Real Estate

Franchise highlight of this year will be

Vending Machines business and Laundry Business, which are much booming in Thailand. These two categories stood well with an investor who does not have time to look after their business attentively.

Other highlights during the four days show will be one-on-one, face-to-face business matching and informative seminar for investor and will be co-located with two of our best expos; The 15th Thailand Retail, Food & Hospitality Services 2021 (TRAFFS) and The 6th ASEAN Retail Show.

Last year show, the show drew almost 140 exhibitors, 300 brands, 937 conference attendees, about 6,000 quality visitors from throughout Thailand, and 1,851 virtual visitors, with a high rate of exhibitor satisfaction. As a result, nearly 70% of exhibitors have confirmed their space for 2021 with us.

#### Key highlight this year:

- Franchise Consultancy Forum Solution - providing franchise consulting and franchisee recruiting
- Business Matching - fostering cooperation and networking
- Business Talk Seminars by industry experts

The show organised by Kavin Intertrade, with over 20 years of experience in the exhibition industry, managing more than 100 domestic and international tradeshows and conferences, Kavin Intertrade, has earned a well-deserved reputation as a leader in trade show organiser in Thailand.

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+66(0) 99 2422495

**Ms. Varintorn:** varintorn.kavin@gmail.com  
+66(0)885541715

#### For more information, please visit:

<https://thailandfranchising.com/>


**Venue:** The 17th Edition of the TFBO 2021 exhibition will be held in Bangkok International Trade and Exhibition Centre (BITEC), a world-class exhibitions centre located in the heart of Bangkok.

For Media Partner & Advertising: nichaphat.kavin@gmail.com

Pre-registration for visitors: <https://bit.ly/3vYDStv>







# 逆境反弹永不言败

## 攀登者的字典里没有认输两个字

### 你的“逆商”高吗？（上篇）

朋

友传来一本电子书给我,书名《AQ》(Adversity Quotient),中文译为“逆商”,作者是保罗·斯托兹,是一位美国人。

他嘱咐我一定要抽时间看看,我点击链接查看了一下,以为又是一本打鸡血的书,心想算了。

马来西亚的行动管控令期间比较空闲,想起了“逆商”这本书,欣然把它跳着看完。

这虽然是一本1997年出版的旧书,24年了但书中的内容历久弥新,我想它还蛮适合在现在这个诸多不确定的氛围下推荐给大家,也许值得你一读再读,搞不好是你在管控令期间突破困境的“武林秘籍”!

这本书很厚实,我除了努力拜读还参考对照了一些有声书,尝试用我的文字来解说,希望大家用一点耐心把这篇文章读完。因本书重点蛮多,我不想因浓缩而导致内容失衡,所以会分成上下篇来完成。那些有看过或听过此书的人,就当温故知新吧!

我们经常赞一个人的智商(IQ),意思是他的智力和敏锐度高于别人,是个典型的“醒目仔”;也有些人喜怒不形于色,遇到事情非常冷静,就是EQ或情商高手。

但你聪明绝顶(智商高)遇事淡定,并不表示你在逆境时能勇往直前,成为最后胜利者。

逆商就是形容一个人面对逆境时的韧性和反弹力,永不言败!

作者以登山比喻人生:他把人分为三种:1)放弃、2)扎营者,以及3)攀登者。

1) 放弃者是那种对人生漫无目标,得过且过之人。  
2) 扎营者为那些曾经非常努力,但一旦达到某种成就后就停滞不前,或因为某种原因一直达不到自己要求而安于现状。

3) 攀登者的字典里没有认输两个字。就像那些攀登珠穆朗玛峰的登山者一样,不畏艰险和大风雪,一心一意只为登顶!

他们达到预定的目标后,紧接着又会向另一个目标前进,永不服输和松懈下来。

在任何情况下,攀登者的数量一定是和逆境的困难程度成反比,就是逆境越厉害,攀登者的数量会越来越少,就像今天面对疫情带来的冲击,很多人会因此而被淘汰!这种现象叫做逆境困局!

### 3层逆境

作者认为,一个人在社会上会面对3层逆境,就是这3层逆境让我们“压历山大”。

#### 1) 社会逆境

有时我们不经意做错一件事,必须面对社会舆论的压力,比如拿督打人事件,这位打人的仁兄肯定压力超大。或你看到同年龄层的朋友们都结婚了,你连女朋友或男朋友也没有,在社交场合遇到大家双双对对,你说压力不?

#### 2) 职场逆境

职场上的人事关系、生意不顺、客户投诉等等,都是职场带来的压力。

#### 3) 个人逆境

你的身体健康出问题、失业、离婚、孩子上大学要筹学费等等都带给我们很大的压力!

### 逆境中错误的选择

在应对逆境的时候我们不小心会走入岔道或钻牛角尖:

#### 1) 攀登者变成扎营者

生活的挫折让我们很想放弃,所以我们应当不断地警惕自己,不能因为一点小挫折而停止前进!

## 2) 科技万能

很多人遇到逆境的时候喜欢寄望于科技，希望新的科技能够解决他目前的困境。(这一点我不甚理解)

## 3) 打鸡血

励志行业有240亿美元市场，因此催生了很多这类型讲师。作者认为，这类型的课程犹如一种兴奋剂，与会者在刻意营造的氛围下被刺激得兴奋无比，和众多学员们一起嗨翻天，宗教狂热般的被洗脑。学员和一群人在一起狂欢了数天后，觉得自己充满斗志，成功在望。这种情况心里学名词叫做“后群体兴奋”！回归了原始社会之后，受挫折打击了几次，几个星期后信心又归零，于是又开始凑钱上课，希望找回失去的自信，然而老师说这一次是进阶版较高级的课程，学费当然水涨船高。很多迷信这种成功课程的人花了几十万甚至几百万，有些人因而负债累累，最后甚至搞到公司倒闭！作者非常反对这些打鸡血课程，认为不只无效，还劳民伤财！坦白说，从来没有任何一个激励讲师会承认自己打鸡血，也没有学员会觉察自己上的是激励课程，我觉得这不重要，只要你负担得起，加上别偏执狂地以为讲师是救世主那也不碍事。

## 4) 走上无助和无望的循环。

你觉得无助所以无望，你觉得无望所以无助，形成一个死循环，成了心灵癌症，让你完全没有改变的动力！

## 如何解决这种问题？

它建立在3大支柱之上：

### 1) 认知心理学

认知心理学的本质就是你若想改变你的心里状况，就必须改变你对某些事物的看法，或所谓的认知，而不是去改变不可控的外在事物。我们有时候不断的被生活残酷的打击，让我们觉得这是一种没办法改变的宿命，完全缺乏掌控感，只好认命。这种情况心理学叫做“习得性无助”！（我认为应该翻译成“习惯性无助”）

马戏团里的大象为什么被绑在一个小棒子上而不会逃走？因为它从小一只脚就被绑在扎实的小棍子上，屡屡尝试解套但都不成功，从此决定放弃，结果终其一生都被一根小棍子套牢。

认知心理学的另一个重要的理论叫“归因理论”。“归因”就是归咎某些事物形成的原因。



比方说，为什么有些人非常害怕和陌生人说话，原因也许是他从小就被父母灌输陌生人都是骗子。

### 2) 健康新论

就是我们的心理对我们的身体的影响。科学家曾经做过研究，把两组老鼠都注射了癌细胞，关进不同隔间。一组有一个按钮，只要一按就有食物出来，让老鼠有掌控感；另一组的老鼠完全没有掌控机会，里面和外界发生任何事都和它们无关。后来研究人员发现，有掌控感的老鼠活得很好，并没有因癌症死掉，但那些没有掌控感的老鼠很快就一命呜呼。研究人员最后的结论就是：当你用软弱的态度来应对逆境的时候会导致压抑，最后严重影响身体健康！

### 3) 脑科学

我们很多人的迷思是养成一种习惯需要21天，作者对此很以为然。

后来有一位科学家告诉他有些习惯几乎一瞬间就能养成，比如触摸火炉，因为一摸之后，你从此不会再去触摸火炉，根本不需要21天！当我们学习一样新东西的时候，大脑运作的地方叫大脑皮层。当我们不断运作学习的时候，大脑皮层会发亮。而我们熟能生巧养成习惯的时候，大脑皮层不亮了，这亮点跑到被大脑皮层覆盖的基底神经节，这个地方就是我们所谓的潜意识。

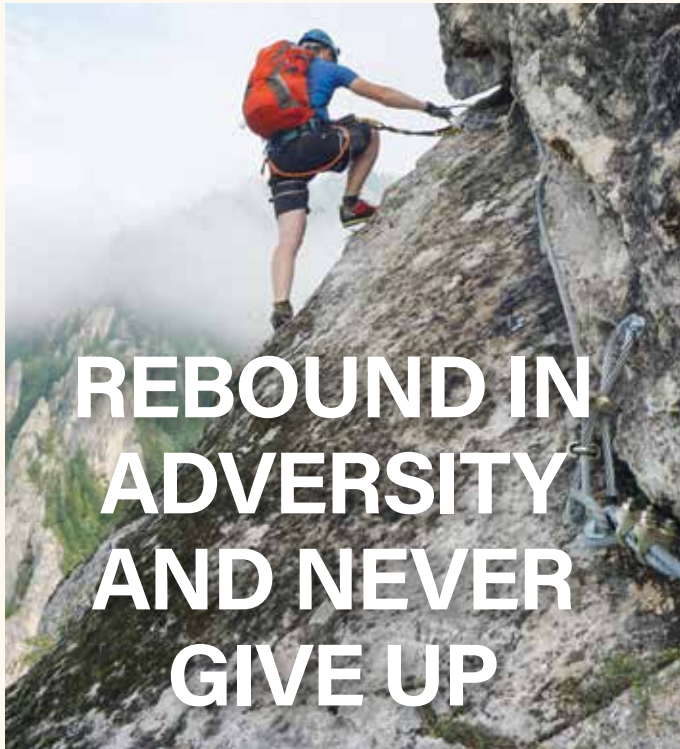
所以我们要改变一些习惯，或养成一种新的习惯，就必须穿透基底神经节，让亮点跑回大脑皮层，因为以前我们的习惯性动作和思考都是因为基底神经节在运作。

我们不改变因为我们没有意识，所以既然我们觉醒了，我们就能改变。

觉醒就是把基底神经节发生的東西重新调到大脑皮层来，开始建立一个新的习惯。

理论讲完了，下一期讲的是如何测量逆境，只要有方法测量，逆境其实并没有我们想象中的那么可怕！





Paul compares life to mountaineering. He divides people into three types: 1) Quitters, 2) Campers, and 3) Climbers.

### Elaboration:

Type 1 is the kind of person who has no goal in life and gets by day by day.

Type 2 is the type that will work very hard, but once they have achieved a certain achievement, they stagnate; or for some reason they have not been able to meet their ultimate requirements and are content with the status quo.

Type 3 is the kind that will not say "I give up". Just like those climbers who climb Mount Everest, they are not afraid of hardships, blizzards or thunderstorms., as they are single-minded to reach the top! And after they reach the predetermined goal, they will then move on to another goal, never admitting defeat and giving up.

In any case, the number of climbers must be inversely proportional to the difficulty of adversity--- that is, the worse the adversity, the lesser the number of climbers. Using the current pandemic situation as an example, many people will be negatively affected by it and they are out of the race.

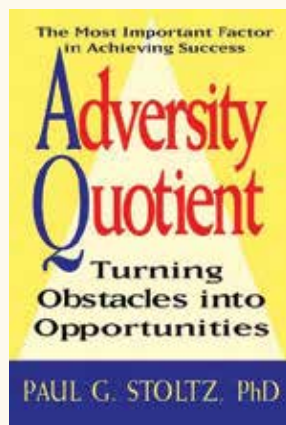
Is your "adversity quotient" high? (Part 1)

A friend sent me an e-book with the title "AQ" (Adversity Quotient, "逆商" when translated in Chinese) and the American author is Paul G Stoltz.

I clicked on the link to check it out, thinking it was another of those "pick-me-up" books.

During the Movement Control Order period (in Malaysia), I was relatively idle, so I was able to finish reading it in great relish.

Although this is a 24-year-old book, but the contents are evergreen. I think it is quite suitable for recommending it to everyone in the current uncertain atmosphere.



We often praise a person for having a high IQ, which means that his intelligence and acuity are higher than others, and he is a typically street-smart. Then there are also people who are very calm when encountering things, which translates to a high EQ.

However, even if you are extremely smart (high IQ) and calm (high EQ) when handling situations, it does not mean that you dare to move forward courageously and become the final winner in times of adversity.

Adversity quotient is to describe a person's resilience and resilience in the face of adversity; it requires a 'never give up' spirit!

So that you will get a hold of this book, I will just share the Table of Contents of Paul G Stoltz's (323 pages including appendixes, notes and acknowledgments) book:

### 3 layers of adversity

The author believes that a person will face three levels of adversity in society.

**1) Social adversity:** Sometimes we make silly mistakes and have to face the pressure of public opinion, such as the well-known Datuk in Malaysia in an assault case in a hotpot restaurant. Or for a bachelor or spinster you might get a lot of pressure from well-meaning relatives asking you why you are still unmarried...In an Asian society, this (environmental) scenario can be very stressful.

**2) Adversity in the workplace:** Personnel relations, business operations problems, customer complaints, etc. These are quite situational.

**3) Personal adversity:** Problems with your health, unemployment, divorce, tuition fees for your children, etc. Even congenital issues—they can weigh us down!

### Wrong choices in adversity

When dealing with adversity, we might make the wrong choice or keeping running into a wall:

**1) The climber becomes the camper:** The setbacks in life can make us want to give up, so we should constantly be alert to ourselves and not stop moving forward because of a small setback!

**2) Technology omnipotence:** Many people like to rely on technology when facing adversity, hoping that new technology can solve their current dilemma. Technology is not a panacea.

**3) Feeding on positive psychology:** The inspirational industry has a \$24 billion market, so motivational speakers are a dime a dozen. I believe that this type of course is like a stimulant. Participants are excited in a deliberately created atmosphere, and they are thrilled and brainwashed like religious fanaticism with many students. And naturally after



a few days of carnival together, these students are all “highly-charged”, and full of fighting spirit and success in sight. However, the stimulant will lose its efficacy a few weeks later, and the students’ confidence will drop drastically. They then will find money to go back for such classes again, hoping to regain the lost confidence. However, the motivational guru will say this time it is an advanced version, and the tuition fees of course will be higher. Many people who are superstitious about this kind of successful course have spent hundreds of thousands or even millions, and some of them are heavily in debt, and eventually their own company even went bankrupt!

I am very opposed to these kinds of courses, as I think that it is not only invalid, but also a waste of money!

**4) Fall into a cycle of helplessness and hopelessness:** You feel helpless and therefore hopeless; you feel hopeless and therefore helpless, thus forming an endless loop or cycle that feeds on itself. It is like having a cancer of the mind, leaving you with no motivation to change!

**How to solve this problem? It is built on 3 pillars:**

**1) Cognitive Psychology (study on mental processes):** The essence of cognitive psychology is that if you want to change your mental state, you must change your view of certain things, or so-called cognition, instead of changing uncontrollable external things. Sometimes we are constantly being brutally hit by life, which makes us feel that this is a destiny that cannot be changed, completely lacking a sense of control, and that we have to accept our fate. The psychology of this situation is called “learned helplessness”! (I think it should be translated as “habitual helplessness”)

Why is the elephant in the circus tied to a small stick and won’t run away? Because it has been tied to a solid stick since its infancy, it has repeatedly tried to get rid of it but unsuccessful. Since then, it decided to give up trying. As a result, it was stuck with a stick (a small stick) for the rest of its life.

Another important theory of cognitive psychology is called “attribution theory”. “Attribution” is to blame the cause of certain things. For example, why are some people so afraid to talk to strangers? Perhaps the reason is that he was taught by his parents that strangers are liars (bad people) since he was a child.

**2) Psychoneuroimmunology—direct relationship between thinking and health:** It is the influence of our psychology on our body. Scientists have done research in which two groups of mice were injected with cancer cells and locked in different compartments. One group has a button, and food comes out as long as you press it, which gives the mouse a sense of control; the other group of mice has no chance of control at all, and anything that happens inside or outside has nothing to

do with them. Later, the researchers found that the mice with a sense of control lived well and did not die from cancer, but those mice without a sense of control quickly died.

The final conclusion of the researchers is: when you use a weak attitude to deal with adversity, it will lead to depression, and finally your health is seriously affected!

**3) Neurophysiology--Brain Science:** To me, it is a myth that it takes 21 days to develop a habit. A scientist told him that some habits can be developed almost instantly, such as touching the very hot stove, because after one touch, you will never touch a hot stove again, it doesn’t take 21 days at all!

When we learn a new thing, the cerebral cortex (in our brain) is the one working. When we continue to work and learn, the cerebral cortex will shine (bright spot). And when we practice something to perfect it and form a habit, the bright spot runs to the basal ganglia covered by the cerebral cortex. This place is what we call the subconscious mind. Therefore, if we want to change some habits, or develop a new habit, we must penetrate the basal ganglia and let the bright spot run back to the cerebral cortex, because our habitual actions and thinking in the past are all due to the operation of the basal ganglia.

We do not change because we are not conscious, so now that we are awakened, we can change.

Awakening is to re-adjust what happened in the basal ganglia to the cerebral cortex and start to establish a new habit.

I will stop here due to space constraints. In Part 2, I will talk about how to measure adversity. As long as there are methods to measure, adversity is not as terrible (or unmanageable) as we thought!



**Dato Liew Bin**

**Dy President, MRCA**

拿督刘明，大马零售连锁协会署理会长







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International Workplace Group










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**ASIAWIDEFranchise**  
爱思威特许经营

**More strategic partners, all with high integrity in other countries, will be recruited on an ongoing basis so as to serve our customers even better.**

**18 Latin American partners since May 2019**



# ASIAWIDE Franchise

## 爱思威特许经营

### ASIAWIDE FRANCHISE CONSULTANTS PTE LTD (AFC)

is one of the most experienced franchise consulting companies in Asia. We currently have more than 70 franchise and associated offices in more than 50 nations. In the last 32 years, we have provided professional consulting services to more than 1300 companies in Asia to expand locally and worldwide.

With our worldwide network, in-depth knowledge, insight (our consultants have managed franchise companies before joining us) and qualifications – e.g. CFE, CMC, CPC and PMC (Senior PMC), we are able to help clients from various industries to develop very strategic and effective franchise packages, conduct incisive franchise audits, help franchisors find suitable franchisees in various parts of the world, and to develop various market entry strategic plans into foreign territories. We also act on the franchisor's behalf in executing certain affairs (e.g. training, audit, termination, etc.). Our sister company Asiawide Trends Pte Ltd is the publisher of the world's only English-Chinese *Asia Franchise & Business Opportunities* magazine that is very popular in Asia since March 1994. We are the most active consulting company in Asia as we participate in over 30 franchise and related shows in Asia every year.

We help our clients to digitalise their franchise system through our Asiawide Digital Advantage ("ADA"). Our franchise management system will be deployed with customized performance dashboards so that our clients will be better able to ensure standards and manage the quality of their franchisees/outlets. In addition, franchisors could also gain better insights into their franchisees' / outlets' financial and operational performance.

We have been awarded many awards, e.g. for contributing to the growth of franchising by CCFA (China), ACFPT (Taiwan), ARFF (ASEAN), WALI (Indonesia), EFDA (Egypt), etc.

### 组织

爱思威特许经营顾问私人有限公司(32年业绩), 是公认的最成功的特许(连锁/加盟)经营咨询服务公司之一, 其超过70个办事处(包括加盟商及策略伙伴)遍及世界超过50个国家和地区。

### 服务范围

爱思威特许经营顾问私人有限公司的服务范围广泛, 包括:

1. 协助商家发展特许经营/连锁店/经济组合体系的全方位解决方案;
2. 我们拥有一个称为ADA的特许经营管理软件, 该软件使特许经营者(盟主)能够有效地管理其加盟商(或经销店)的质量/标准, 并增强其业务的运营(包括培训和财务方面)。
3. 扮演经纪人角色, 协助企业及个人加入特许经营体系;
4. 出版特许经营刊物, 定期出版中英文「亚洲特许经营加盟连锁·投资良机」杂志(自1994年);
5. 每年参与30多不同国家与区域的特许经营展览、研讨会及相关活动(包括组织赴北美、欧洲、中日韩、东盟考察团)
6. 我们还代表特许经营公司(盟主)执行某些事物(如培训他们的加盟商;审核加盟商日常业务操作;办理合约终止的手续与流程,等.)
7. 其他辅助服务。

### 我们的成绩

爱思威特许经营顾问私人有限公司

在本区域已为超过1300个不同行业的企业提供综合广泛而又高度专业化的咨询服务。

本公司团队力量精良, 现有高级顾问多名, 均具有美国特许经营协会授予的注册特许经营管理专家(CFE)头衔, 高级执行管理顾问(Senior PMC)等。

爱思威自诞生以来, 获得了很多的奖项和赞誉, 如: 10年贡献奖(中国连锁经营协会2008); 卓越贡献奖(台湾连锁加盟促进协会2014); 区域贡献奖(东盟连锁加盟协会2015) 及突出贡献人物奖2017, 等等。



### We know franchising.

Room 2, 7B Aliwal Street, Chenn Leonn Building

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爱思威特许经营顾问私人有限公司的网站有一个全新的面貌。请立即访问[www.asiawidefranchise.com.sg](http://www.asiawidefranchise.com.sg)浏览此页面上的二维码。





Whether you are an established or emerging franchise, ADA's franchise management system can help you manage your franchisees, communicate effectively with them and monitor their performance to help them succeed.

Grow your franchise operations using digitization with ADA — specially developed for you to ensure a smooth and seamless business expansion with performance transparency.

**ADA stands for Asiawide Digital Advantage™**



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## Singapore's Best Managed Companies Award Winner 2021



### Models for a Brighter Future — KinderWorld International Group's New Strategy

By Dr Chua Chee Lay

**T**he past hundred years have been a century for the West. The winds of change are blowing strongly towards the East in the last thirty years. With the rise of China and India, there has been an international reshuffling of power. The Regional Comprehensive Economic Partnership (RCEP) Agreement, initiated by the ten ASEAN countries with the participation of China, Japan, Korea, Australia and New Zealand, has developed into the world's largest free trade economic system in the Asia-Pacific region. Further, anti-Asian sentiments against Asians and their businesses and education in the West has given a further boost to the momentum of the East Wind.

#### Sun rises in the East, sets in the West

This has prompted an increasing number of major Asian companies to shift their focus to Southeast Asia, especially Singapore. In particular,

parents from China and other Southeast Asian countries who believe in the high standard and quality of education in Singapore, are enrolling their children in schools in this little red dot.

Singapore has developed into one of the world's most notable hubs for trade, finance and education; it has been ranked as one of the top five most competitive economies in the world for several years by the latest Global Competitiveness Report published by the Lausanne Institute of Management (IMD) in Switzerland. In 2020, the IMD ranked Singapore as the "World's Most Competitive Economy" for the second year in a row. For the seventh consecutive year, Singapore's Nanyang Technological University has been ranked as the world's top young

comprehensive university. National University of Singapore and Nanyang Technological University have also been ranked ahead of other top universities such as Yale, Princeton, Columbia, Peking, and Tsing Hua, amongst others, in the QS World University Rankings.

The Programme for International Student Assessment (PISA), a prestigious test sponsored by the Organization for Economic Co-operation and Development (OECD) to rank the knowledge and skill level of 15-year-old students around the world, has seen Singapore top the list for many years.







There are many reasons for Singapore's success in education. Putting aside political stability and social security, the Singapore government places great emphasis on a visionary education policy, a substantial education budget and a spirit of excellence that motivates constant improvement.

**“天时地利人和”——孟子**  
**The time is right, & the geographical and social conditions are favorable, by Mengzi**

With its philosophy of “Eastern Values, Western Education, Global Citizens”, KinderWorld International Group has been able to take advantage of the world's increasing internationalization. With its headquarters in Singapore, a country with strong international ties, connections and networking, KinderWorld has developed various educational partnerships across the globe.

From its inception as a single childcare centre in 1986 in Singapore, KinderWorld has gone on to expand into Vietnam for the last twenty years, establishing 15 international schools from kindergarten to high school, Pegasus International College and Outward-Bound Vietnam. It has become the largest foreign-funded education enterprise in Vietnam, laying a solid foundation for a deep-rooted education company.

In view of Singapore's strategic location, KinderWorld plans to establish a Singapore Smart Education Hub, comprising three international schools and a training college. It will also launch the first Chinese Language Artificial Intelligence Lab (CL AI Lab) to leverage on the development of intelligence in advanced digital technology to develop its own learner-centered Interactive Learning Modules (iLM). The aim of the CL AI Lab is to

help Chinese Language learners master the Chinese Language with ease and progression.

### A new model for the future

Mr. Ricky Tan, Chairman of KinderWorld International Group said that the Group is looking at a strategy to develop the Chinese education market by combining Singapore's globally-acclaimed education with China's rapidly developing talent development programs.

Some of the Group's initiatives include signing a strategic partnership agreement with Chongqing Bashu High School, a notable secondary school in China, as well as the operations of international schools in the Greater Bay Area and Hainan Island.



**Mr. Ricky Tan**

“Winning the inaugural Singapore's Best-Managed Companies Award is a testament

to our business model, operational excellence, staff development and commitment towards sustainability. Despite the global uncertainties and challenges in the business environment, we remain confident of our journey ahead and look forward to identifying more business opportunities in the near future.”

For enquiries,  
enquiry@kinderworldgroup.com  
Hotline: (65) 6392 3850







## 新加坡最佳管理公司奖2021

### 以楷模布新局 —— 楷新国际教育集团新方略

文：蔡志礼博士

过去的一百年是西方的世纪，然而随着这30年来中国和印度的崛起，国际局势大洗牌，由亚细亚组织10国发起，中国、日本、韩国、澳大利亚、新西兰共同参加的区域全面经济伙伴关系协定（RCEP），已发展成为全球最大自由贸易经济体系，更进一步推动了东风的势头。加上反亚洲人浪潮，对亚洲人在西方经商和求学很不利，这促了越来越多亚洲大企业把重点转移到东南亚，特别是新加坡。亚洲各地的家长更是纷纷把孩子送到国际先进教育水平的新加坡读书。

#### 日出东方薄西山

新加坡已发展为全球商贸，金融和教育枢纽之一，连续数年被评为全球前五大最具竞争力的经济实体。2020年，在瑞士洛桑管理学院（IMD）最新全球竞争力报告中，新加坡更是连续第二年蝉联“全球最具竞争力经济体”。新加坡南洋理工大学连续七年，蝉联全球顶尖年轻大学排行榜首的综合性大学。在Quacquarelli Symonds所发表的世界年度大学排行榜上，新加坡国立大学和南洋理工大学，已俨然超越多所顶尖大学，如耶鲁大学、普林斯顿大学、哥伦比亚大学、北京大学和清华大学等。

由经济合作与发展组织（OECD）主办，针对全球15岁学生学习水平的测试，国际学生能力评估计划（PISA），新加坡多年来都表现耀眼，高居榜首，也引来全球羡慕的眼光。

新加坡教育取得成功的主因，除了政治稳定，社会安全外，还归功于极度重视教育的政府，高瞻远瞩的教育政策，与时俱进

的教育体制，教育资源的大量投入，以及不断汲取各先进国教育精华，力争上游，止于至善的进取精神。

#### 天时地利加人和

总部设在新加坡的楷新国际教育集团领导，始终秉持着融合东方传统价值与西方现代教育，培养世界公民的办学理念，瞄准国际大势东风西渐的天时、凭借新加坡国际要道得天独厚地利，加上充分发挥配合政策、广结善缘、畅通人脉的人和精，走出了独具特色的强强教育合作经营之道。

自1986年从一所幼儿园创业以来，楷新不但在各国开拓教育市场外，也在越南经营了20多年教育事业，创设了15所从幼儿园到高中的国际学校、2所楷新国际教育学院和2所越南外展学校，成为越南最大的外资教育企业，奠定了深耕教育企业的稳固根基。

由于看好新加坡在教育事业上的巨大潜能，楷新计划在未来的几年内，在新加坡设立智能教育枢纽（Smart Education Hub），包括



为18个月到18岁新生代开办的3所优质国际学校和专业培训中心。同时也设立华文人工智能实验室（CL AI Lab），借助先进数码科技创的智能优势，启动以学习者为本的互动模块学习（Interactive Learning Module）教育方式，致力迅速攻克双语学习难关，有效培养能从容应对未来挑战和精通双语的全球化人才。

#### 审时度势布新局

楷新国际教育集团创办人兼董事长陈德阳先生表示，楷新正在展开全面开发中国教育市场的策略，例如已经与中国重点中学重庆巴蜀中学签订战略合作协议，也积极与大湾区和海南岛当地洽谈合作办学的可能，陈董事长欢迎海内外有志于投资或经营教育的同道有钱出钱有力出力，为在全球享有盛誉的新加坡教育品牌，结合中国飞速发展的人才培养计划，掀开现代教育史的新篇章。

陈德阳先生在领奖时表示：“赢得首届新加坡最佳管理公司奖证明了我们的商业模式，卓越运营，员工发展和对可持续发展的承诺是正确的，尽管全球商业环境存在不确定性和挑战，但我们对未来的旅程仍然充满信心，并期待在不久的将来发现更多商机。”





# KINDERWORLD INTERNATIONAL GROUP

## WINNER OF BEST MANAGED COMPANIES SINGAPORE



KinderWorld International Group Ltd ("KinderWorld") and its subsidiaries form the largest owner-operator of foreign-invested international schools business in Vietnam. The first childcare centre started operations in Singapore in 1986 and with years of extensive experience, KinderWorld then ventured into Vietnam in 2000.

KinderWorld provides education services for students from 18 months to 18 years old through three brand names: KinderWorld International Kindergarten, Singapore International School, and Singapore Vietnam International School. Its footprint within Vietnam has grown to 15 schools in cities such as Hanoi, Ho Chi Minh City, and Danang. With over 35 years of experience in the Education sector, KinderWorld is seeking to expand its presence.

### KINDERWORLD INTERNATIONAL KINDERGARTEN

We are focused on developing children's socio-emotional skills and building a strong foundation to nurture the learning capabilities for our young learners. Our curriculum promotes environmental awareness, personal and social awareness, thinking and creativity, computer literacy and development of motor skills.

### SINGAPORE INTERNATIONAL SCHOOL (K-12)

We offer Singapore and international curricula for our students, including STEM and Sustainability principles. We partner with Outward Bound Vietnam for our students to embark on experiential outdoor learning, leadership and teambuilding programmes.

International examinations that we conduct include:

- The Singapore International Primary School Examination (iPSLE)
- Cambridge International General Certificate of Secondary Education (IGCSE)
- Cambridge A Level
- NCC Education Level 3 International Foundation Diploma for Higher Education Studies (L3IFDHES)

Our affiliated education entities:

### PEGASUS INTERNATIONAL COLLEGE

(VOCATIONAL & HIGHER EDUCATION)

Pegasus International Colleges in Vietnam offer Hospitality, Tourism and Culinary Arts, and Corporate Training with international Curriculums based on the Australian and ASEAN Qualifications Framework. To date, over 22,700 students have been trained since 2011. Pegasus International College in Singapore is a registered Private Education Institution and offers Diploma in Business Management and Diploma in Education, on top of corporate training programmes for companies.

### OUTWARD BOUND VIETNAM

(OUTDOOR EXPERIENTIAL LEARNING)

Outward Bound Vietnam (OBV) is a member of Outward Bound International – an outdoor experiential education organisation founded in 1941 and with a global presence in 35 countries. OBV partners with schools, Institutes of Higher Learning and corporates around the region to develop leadership, team-building and communication skills through experiential learning and build awareness for environmental sustainability among participants.

OUTWARD BOUND  
VIETNAM

