

FRANCHISE AND DISTRIBUTION

ELECTRONIC AND COURIER DELIVERY COMING TO ONTARIO

by *Andrae Marrocco*

After long anticipation from the franchise industry, the government of Ontario has finally amended regulations under the *Arthur Wishart Act (Franchise Disclosure), 2000 ("Act")* to expressly allow a franchisor to deliver its franchise disclosure document electronically and by prepaid courier. Once the amended regulations come into effect on July 1, 2016, there will be four acceptable means of delivery of a franchise disclosure document in Ontario: personally, by registered mail, by prepaid courier, and electronically.

In order to deliver a disclosure document electronically, the following specific requirements must be met:

- the document must be delivered in a form that enables the recipient to view, store, retrieve and print it;
- the document must not contain any links to external documents or content;
- the document must contain an index for each separate electronic file comprising the document where each index sets out the file name and, if the file name is not sufficiently descriptive of the subject matter of the file, a statement of that subject matter; and
- the franchisor must receive written acknowledgment of receipt from the prospective franchisee.

The amended regulations also permit delivery of a notice of rescission by prepaid courier in addition to personal delivery, registered mail or fax.

All general requirements pertaining to disclosure (e.g. that disclosure be made as one document at one time) will clearly apply to the new forms of disclosure.

Prior to these amendments, Ontario was the only province that specified mandatory delivery methods and did not explicitly permit delivery electronically or by courier. The amended regulations streamline the delivery requirements, and create greater consistency, across Canada.

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