Preface to the First Edition

The publication of the Franchise Law Compliance Manual marks a significant milestone in the growing field of franchise literature. The ABA Forum on Franchising’s Corporate Counsel Division, under the leadership of its then-Director, Kathleen Callahan Anderson, first conceived of the idea for a compliance manual for franchise counsel. The idea was to focus on the general areas of corporate practice, such as labor and environmental law. When I became Director of the Corporate Counsel Division, Kathleen was a member of the Forum Governing Committee and encouraged me to pick up the project. I was not excited by the project initially, but Kathleen had a contagious enthusiasm.

As I thought about the project and discussed it with Kathleen, we realized that there was a need for a book specific to franchise law that would assist the lawyer new to advising a franchise company as general counsel or in-house counsel. That lawyer needed a guide not only on how to solve an ad hoc problem, but also on how to organize a company’s compliance programs to proactively address the issues specific to franchising. There were compliance manuals for the generalist and, although other books on franchising have focused on specific issues such as registration and disclosure, mergers and acquisitions, and trademarks, there had not been a substantial treatment of the compliance aspects of franchise law. No single publication identified the scope of franchise law compliance issues, nor was there any uniform guidance on how these issues should be approached. The Steering Committee of the Corporate Counsel Division took up the challenge to fill this void. We agreed on the topics and, at the suggestion of Jeff Brimer, who was then a member of the Steering Committee, to give the project a “dry run” at the annual Forum program. Each of the chapters was presented as a series of papers and discussed at “roundtables” as a mini-program at the 20th Annual Forum of the ABA Forum on Franchising in Colorado Springs, Colorado. Entitled “How to Develop and Implement a Franchise Corporate Compliance Program,” these papers formed the foundation for the Franchise Law Compliance Manual. From the outset of this project, we determined that this Manual should be a working reference for franchise lawyers to establish day-to-day compliance programs that would help protect the franchisor’s property, limit liability, and prepare for and limit the inevitable tensions in a franchise system. To this end, we decided that this Manual could only be truly useful if it were prepared from the perspective of both in-house franchise attorneys and their outside corporate counsel, who must frequently work in tandem to achieve the legal and business objectives of franchisors. Similarly, the preparation of each chapter represented a collaboration between in-house and outside counsel (though, by the time this manual went to press, some of the authors’ positions had changed).

We also realized that in preparing the Manual, the editing needed the same outside counsel perspective as the authors, and we were fortunate enough to have Bret Lowell, a former Chair of the Forum on Franchising, join as an editor. Our
ongoing task has been to ensure that both perspectives are equally preserved in the ensuing work. With this in mind, we have both drawn on the diversity of our experience in counseling franchisors.

The Franchise Law Compliance Manual is thus the direct product of the ideas of the Corporate Counsel Division Steering Committee and the hard work of fifteen individuals, over the course of more than three years. It provides an in-depth, extensive view of franchise law compliance issues, offers countless forms and checklists which franchise attorneys will no doubt find indispensable in their daily practice, and it demonstrates the interplay of case law with compliance. With the Franchise Law Compliance Manual, franchise practitioners now have the keys to a successful corporate compliance program at their fingertips.

That said, this remains Kathleen’s project and it is to her that this Manual is dedicated.

Steven M. Goldman