

Comparative Legal Study
Distribution Models

by

DLN | DISTRIBUTION LAW
NETWORK

January 2026

Germany
UK
France
Italy
Spain
Netherlands
Switzerland
Belgium
Portugal

About the DLN

The **Distribution Law Network** is an informal network of experienced lawyers with a passion for international distribution law and familiar with the specific issues raised by international negotiations.

The strength of our friendly network is the team spirit and pragmatic approach, which enables us to handle transnational issues efficiently.

The experience acquired through this network is also very useful in our daily practice as it allows us to be aware of the inevitable influences of foreign legislation and caselaw to propose relevant and innovative solutions to our clients.

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While this document has been prepared with the utmost care, it merely concentrates legal information and must therefore not be understood as legal advice. Hence, we exclude any liability that may arise out of the use or misuse of the information.

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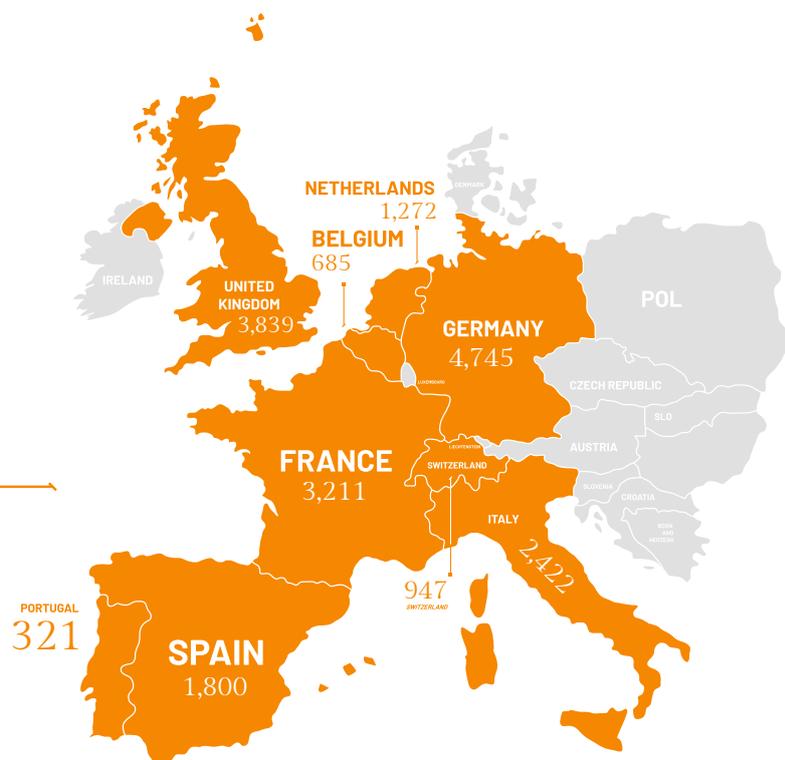
INTRODUCTION

Comparative Legal Study Distribution Models

When you are a brand owner or developer of products or services, there are many ways to distribute, market, and sell your products or services. You can do it yourself (or through a subsidiary) or you can make use of a third party to do it for you, for example as a commercial agent, reseller/dealer or licensee. In addition to traditional distribution models, the rise of internet and e-commerce has led to the emergence of new distribution models, like “m-commerce”, “s-commerce”, platforms, marketplaces and subscription models. Each distribution model entails specific advantages and disadvantages and may be governed by its own set of applicable laws, which may differ per country.

This comparative study is a compilation, made by the members of our Distribution Law Network (DLN), consisting of cooperating law firms across Europe specializing in commercial and distribution law. Herein, we describe the different distribution models and the advantages and disadvantages per model. We also include new and online distribution models. Furthermore, we provide you with an overview of the legal consequences, including competition law aspects, of using a certain distribution model in some of the most significant economies in Western Europe:

We hope this comparative study will be helpful to you, to make an informed decision about what distribution model is most suitable to your business. When you have questions, please feel free to contact the contributors to this study, members of the Distribution Law Network (DLN) and specified in Chapter F.



*Estimated GDP, meaning nominal Gross Domestic Product in USD¹

DATA:

1. Germany	-- 4,745 billion
2. United Kingdom	-- 3,839 billion
3. France	-- 3,211 billion
4. Italy	-- 2,422 billion
5. Spain	-- 1,800 billion
6. Netherlands	-- 1,272 billion
7. Switzerland	-- 947 billion
8. Belgium	-- 685 billion
9. Portugal	-- 321 billion

¹ [World Economic Outlook Database, April 2025, IMF](#), retrieved 10. September 2025

DISTRIBUTION MODELS

I. COMMERCIAL AGENCY MODEL

1. General description of the commercial agency model

A commercial agency is a contractual relationship where one party (“the agent”) is legally authorised to negotiate and/or conclude contracts on behalf of another party (“the principal”) in return for remuneration (often commission-based). The agent acts as an intermediary but does not acquire ownership of the goods or services sold.

Commercial agents operate in the name and on behalf of the principal, and their authority may be limited to negotiations or extended to the conclusion of sales contracts.

This model is governed in the EU by the Commercial Agents Directive, which provides harmonized rules, particularly in favour of the agent (e.g., indemnity or compensation upon termination).

2. Ownership of the products; does it transfer, if so, how?

Ownership of the products is never transferred to the agent. The agent does not take title to the goods at any time.

Ownership passes directly from the principal to the customer, in accordance with the terms of the contract concluded (or negotiated) by the agent. The sale is

between the principal and the buyer, not between the agent and the buyer.

3. Who concludes the contract with the buyer / customer?

It depends on the scope of the agent’s authority:

- If the agent is only authorised to negotiate, the principal concludes the contract directly with the customer.
- If the agent is authorised to negotiate and conclude, then the agent may conclude the contract on behalf of the principal. In such a case, the agent binds the principal directly.

In both cases, the contract is legally concluded between the principal and the buyer, not between the agent and the buyer.

4. Who runs the credit / payment risks?

The principal bears the credit and payment risks.

Since the agent is not a party to the sales contract and does not purchase or resell the goods, the agent is not liable if the customer fails to pay. However, some agency contracts may include specific clauses where the agent assumes part of the risk (e.g., del credere agency).

5. Advantages and disadvantages of the commercial agency model

Advantages:

- Controlled pricing and branding: The principal retains full control over contractual terms.
- Cost efficiency: Agents are usually paid on commission, which means lower fixed costs.
- Market knowledge: Agents often have strong local connections and know-how.
- No stock risk: Principal retains ownership and risk of goods.

Disadvantages:

- Legal protections for agents: Especially in the EU, agents have strong legal rights, including mandatory indemnity or compensation upon termination, unless termination is due to breach.
- Lack of operational control: Agents are independent, and the principal cannot exert the same level of control as over an employee.
- Dependence on agent performance: The business's success in a given market may hinge on the agent's capabilities and efforts.

- Compliance with local laws: Even though the model is harmonized in the EU, national differences remain (e.g., in compensation calculation or agency registration).

6. Specific points of attention for the commercial agency model

- Termination rights: Be aware of statutory protections, including mandatory notice periods and compensation or indemnity upon termination (Article 17-19 of the Commercial Agents Directive).
- Scope of authority: Clearly define what the agent can and cannot do – negotiation only vs. power to conclude contracts.
- Remuneration structure: Define how commission is calculated and when it is payable (including post-termination commissions).
- Exclusivity: Clarify whether the agent has exclusive rights in a territory or sector.
- Confidentiality and non-compete clauses: Particularly post-termination, ensure they are legally enforceable and reasonable in scope/duration.

II. COMMISSIONAIRE OR CONSIGNMENT MODEL

We can observe, though this may vary from one country to another, the emergence of two distribution forms that are somewhat more complex than the traditional purchase and resale model. In a traditional purchase and resale relationship, the reseller bears the entire risk of the resale. For example, if the reseller fails to resell the product, it will normally have to bear the loss. The corollary of this risk is their freedom to resell the product. While this freedom can be restricted in terms of customer base or territory, it is much more difficult to limit it in terms of pricing, the principle being, with few exceptions, that the reseller must remain free to determine the resale prices (see Chapter C).

To allow a more appropriate allocation of risk and address specific needs, alternative models have been developed, based on the freedom offered by the law, in structuring the contractual relationship. There are two specific types of relationships between suppliers and distributors, in which the goods are delivered and handed over without transferring ownership immediately and may be returned if they remain unsold: **the consignment contract and the commission contract**. These models help distributors to minimize the risks of unsold goods.

1. General description of the commissionaire or consignment model

a) Consignment (“deposit-sale” and “deposit-resale” contracts)

Consignment is an arrangement in which goods are left in the possession of an authorised distributor (“**consignee**”) to sell them but economically remain an asset of the supplier (“**consignor**”) until there is a resale. Usually, unsold goods can be returned to the consignor without a loss. This is particularly popular for artworks, clothing, books and accessories. Consignment basically comes in two different legal forms:

- **First formula:** This is generally a combination of a **deposit** contract and a **mandate** contract. In this case, the goods are handed over to a distributor charged with selling them in the name and on behalf of the depositor. Thus, the distributor does not act as a seller of the goods towards the customer, but as

mere intermediary. This form will be referred to as a “**deposit-sale**” contract.

- **Second formula:** In this second variation, the consignee purchases the goods from the supplier and acts as a reseller of the goods towards the customer. However, the purchase contract (i.e. the first sale from the supplier) is **concluded under the suspensive condition** of a sub-purchase of the respective goods (i.e. it is only effective if the consignee finds a customer and there is a resale). This form will be referred to as a “deposit-resale” contract.

The first formula seems adapted to a traditional model of consignment. The customer is aware of the existence of the consignment and that the physical/digital point of sale offers products put up for sale by third parties (often private individuals). Under the second formula, the very existence of the consignment can be hidden from the customer, because there is no distinction in the store between products not yet owned by the retailer and products already owned by the retailer. The first formula therefore corresponds to a distribution model, while the second is more a model of organisation between suppliers and distributors.

The usefulness of consignment is obvious: the distributor is not liable in the case of unsold goods. However, the two consignment formulas are clearly distinguishable with respect to the seller. In the first formula, the seller is the first supplier (consignor), whereas in the second one, it is the consignee. This will affect who sets the price.

The supplier-depositor (or consignor) sets the price freely subject to the prohibition on resale price maintenance laid down in Article 101(1) TFEU. The relationship between the depositor (consignor) and the recipient (consignee) may avoid this prohibition, provided that the consignee is an agent within the meaning of competition law (see Chapter C).

In any event, the question of risk should be analysed on a case-by-case basis by considering the economic reality rather than the legal form of the agreement.

Similarly, regarding the payment terms, the second formula offers an advantage, as the first sale will be completed at the same time as the second, which means

that the consignee, even though they are a buyer-reseller, does not have to bear the cost of stock.

b) Commission

Commission is a contract by which a person (“the commissionaire”) acts in their own name but on behalf of another (“the principal”)².

Commission is generally opposed to commercial agency, from which it differs by its “opaque” nature: the commissionaire acts in their own name without being required to disclose the identity of the principal. By contrast, the commercial agent acts in the name and on behalf of the principal.

Moreover, the commission contract can be seen as lying midway between the two forms of consignment arrangements (“deposit-sale” and “deposit-resale”). It takes from the former the fact that both the commissionaire and the consignee act on behalf of another party, and from the latter the characteristic that, from the final buyer’s perspective, both the commissionaire and the consignee appear as the sellers of the goods.

2. Ownership of the products; does it transfer, if so, how?

a) Consignment (“deposit-sale” and “deposit-resale” contracts)

The first formula, the “deposit-sale” contract, is a deposit coupled with a mandate to sell, which therefore does not entail transfer of ownership. Consequently, the principal-depositor (consignor) remains the owner of the products.

Concerning the second formula, the “deposit-resale”, the distributor (consignee) is the owner for an instant, until the resale to a sub-purchaser is completed. The transfer of ownership from the supplier to the distributor (consignee) only takes place at this date.

By contrast, since the depositary (consignee) must exercise the same level of care of the good in their custody as they do for the items that belong to them, they may be liable for any deterioration of the goods under their custody.

² This study focuses on sales commissions, where the principal is the seller. There is also the concept of purchase commissions, where the principal is the buyer. In such cases, the reasoning is completely reversed.

b) Commission

Under a commission contract, the principal retains ownership of the products. This is because the contract transfers ownership directly from the principal’s estate to the buyer’s estate.

3. Who concludes the contract with the buyer / customer?

a) Consignment (“deposit-sale” and “deposit-resale” contracts)

In the first formula (deposit-sale), the assigned mandate empowers the distributor to conclude legal acts in the name and on behalf of the supplier as mandator. In this case, sales are concluded in the name of the depositor-mandator (consignor), represented by the depositary-mandatar (consignee).

In the second formula (deposit-resale), the first sale between the supplier (consignor) and the distributor (consignee) occurs concurrently with the second sale (the resale) between the distributor (consignee) and the sub-purchaser: therefore, it is indeed the consignee (distributor) who concludes the (re)sale contract in their own name.

As mentioned above, in both case, the supplier-depositor is free to set the selling price of products intended for end consumers (in this respect, please see the decision of the Commercial Chamber of the Court of Cassation of April 25, 2001, no. 98-13.101) without infringing Article 101(1) TFEU provided that the consignee is an agent within the meaning of competition law.

b) Commission

In the commission contract, the products are sold by the commissionaire because it acts in its own name. Unlike the first form of consignment (the deposit-sale contract), the principal has no direct link with the buyer, just as in the case of the deposit-resale. The commissionaire ultimately transfers to the principal the rights and obligations they have acquired on the latter’s behalf.

As with the presented forms of consignment, it is accepted that the principal (supplier) can set the selling prices of the products, without infringing the ban on anti-competitive agreements (Article 101(1) TFEU), provided

that the commissionaire (distributor) is an agent within the meaning of competition law (see Chapter C).

4. Who runs the credit / payment risks?

a) Consignment (“deposit-sale” and “deposit-resale” contracts)

In the case of consignment, the risk of non-payment by the final customer is borne by the supplier (consignor) under the first form, since the sales contract is concluded in their name and on their behalf, making them the creditor of the buyer's/consumer's payment obligation. Under the second form (“deposit-resale”), the consignee bears the risk of non-payment. However, the consignee may contractually attempt to transfer this risk to the consignor. This will have an impact on the issue of resale price setting (see Chapter C).

It should be noted that, in any case, the consignment contract generally provides for the remuneration of the consignee in the form of a percentage of the sales made, therefore, non-payment may affect the depository.

The parties may, of course, choose other ways of organizing and sharing responsibility in the event of non-payment.

b) Commission

Under a commission contract, the commissionaire does not normally bear the risk of non-payment.

If they do bear the risk, this may have consequences in terms of the risk of resale price fixing (see Chapter C).

5. Advantages and disadvantages of the commissionaire or consignment model

a) Consignment

Advantages for suppliers:

- Retains ownership of the goods until sale.
- Savings due to lack of inventory management.

Disadvantages for suppliers:

- Success of sale depends on the efficiency and visibility of the consignee, less control of the supplier regarding distribution activities.
- Cashflow risk since no immediate payment of

delivered goods.

Advantages for distributors:

- Not subject to commercial risk regarding market success.
- No product acquisition costs.
- Not liable for unsold goods.

Disadvantages for distributors:

- No ownership of goods, thus less commercial flexibility.
- Risk of non-payment of compensation if the final customer does not pay.
- In principle, not free to determine the selling price unless the consignee is not an agent within the meaning of competition law.

b) Commission

Advantages for the principals:

- Anonymity, as the commissionaire acts in its own name even if it acts on behalf of the principal.
- Having someone who is not legally the purchaser of the product or service and who can invoice for the sale or service.
- In principle, free to set the selling price of the products sold by the commissionaire if the commissionaire is an agent within the meaning of competition law.

Disadvantages for the principals:

- Less control over and knowledge about customer relations (since it is invisible in the relationship with the customer).
- Success of sale depends on the efficiency and visibility of the commissionaire.
- More complexity in terms of accounting and legal structure than traditional sales.
- Advantages for commissionaires:
- No costs related to acquiring stock.
- Little or no risk in the operation.

Disadvantages for commissionaires:

- Direct liability towards clients, even if recourse against the principal remains possible.
- Must report on management and return proceeds to the principal.
- In principle, not free to determine the selling price if the commissionaire is an agent within the meaning of competition law.

III. DISTRIBUTION (OR DEALER / RESELLER) MODEL

1. General description of the distribution (or dealer / reseller) model

A distribution model, also referred to as dealership or reseller model, is a common way for suppliers (manufacturers or service providers) to reach end customers without handling all the logistics, sales, and after-sales directly. Instead, they rely on their distributors or dealers. Sometimes the distribution chain consists of several layers, for example: the supplier / manufacturer the (country) distributor the (regional) dealer the retailer/store and then the end consumer. The distribution channel may also be much more simplistic and may consist of only one layer (a reseller). There are also special forms of distribution, which will also be explained below, namely exclusive and selective distribution.

a) Exclusive distribution

Exclusive distribution is a distribution system where the supplier allocates a territory or group of customers exclusively to itself or to a maximum of five distributors (pursuant to the Vertical Block Exemption Regulation ("VBER")) and restricts all its other distributors from actively targeting customers to sell products or services (active selling) into the exclusive territory or to the exclusive customer group, ensuring the appointed distributor(s) enjoy(s) exclusivity (see Chapter C I. 1.).

This exclusivity is typically mirrored by the distributor's obligation to invest in marketing, promotion, and sales efforts for the product, often including minimum purchase and marketing requirements. If these obligations are not met, the supplier may withdraw exclusivity or terminate the agreement.

This model is frequently used for high-end, luxury, or technically complex products – such as automobiles or industrial machinery – where brand control, customer experience, and after-sales service are crucial. The exclusivity incentivises the distributor to make significant investments in the brand and ensures focused market penetration.

b) Selective distribution

Selective distribution is a distribution system where the supplier undertakes to sell the products or services, either directly or indirectly through an exclusive distributor on the wholesale level, only to distributors selected on the basis of specified criteria and where these distributors undertake not to sell such goods or services to unauthorised distributors within the territory reserved by the supplier to operate that system (see Chapter C I. 2.).

This system is prevalent in the automotive and luxury goods sector as well as for high-quality consumer products, where the manufacturer aims to maintain brand prestige and avoid sales through discount channels or unauthorised outlets.

Selective distribution networks are structured to ensure that only retailers meeting certain standards (such as technical expertise, quality of service, product presentation or store environment) are permitted to sell the products or services. This helps preserve the brand's image and ensures a consistent customer experience across the network.

2. Ownership of the products; does it transfer, if so, how?

The ownership of the products typically transfers with the supplier's delivery of the products to the distributor – each delivery typically constitutes a separate transaction resp. purchase contract within the framework and rules of the distribution agreement. The distributor then owns the products and is responsible for their onward sale to end customers or authorised retailers.

3. Who concludes the contract with the buyer / customer?

The distributor (whether exclusive or selective) concludes the sales contract directly with the end customer resp. retailers or, in selective distribution systems, with authorised retailers within the network, who purchase from the distributor or another authorised retailer and then sell to the end customer. Consequently, the

III. DISTRIBUTION (OR DEALER / RESELLER) MODEL

supplier's contractual relationship is only with the distributor, not with the end customer or retailers.

4. Who runs the credit / payment risks?

Generally, most of the business risks related with the distribution and selling of the products and services are borne by the distributor. The distributor, as the owner of the products after transfer, generally assumes the credit and payment risks associated with selling to end customers or retailers. The supplier's risk is limited to the sale to the distributor; once ownership passes, the distributor bears the financial risks of subsequent sales, including bad debts and non-payment by customers.

5. Advantages and disadvantages of the distribution (or dealer / reseller) model

Advantages of working with distributors:

- **Market reach and scale:** Distributors already have networks of dealers/retailers and faster access to new markets, especially international ones.
- **Lower sales and logistics costs:** Supplier does not need to build warehouses, local offices, or sales teams in every region. Distributor handles storage, shipping, customs, and delivery.
- **Local market knowledge:** Distributors understand local regulations, customer preferences, and competitive dynamics. They often manage language, cultural, and legal differences.
- **Reduced financial risk:** Distributors typically buy products upfront (supplier gets revenue earlier), and credit and collection risks shift to the distributor.
- **After-sales and support handling:** distributors often manage warranty claims, returns, and repairs. This reduces supplier's burden on customer service in multiple markets.

Disadvantages of working with distributors:

- **Lower profit margins:** Each layer (distributor, dealer, retailer) adds a mark-up.
- **Loss of control:** Supplier has less influence over pricing, customer experience, and brand presentation.
- **Market dependence:** Reliance on a few strong distributors can create vulnerability. If a distributor fails, exits, or underperforms, sales in that region may collapse.
- **Limited customer relationship:** Supplier generally does not directly engage with end customers making it harder to collect customer feedback and build

loyalty.

- **Territorial restrictions:** Many distributor agreements involve exclusivity in a country/region. This can block the supplier from pursuing direct sales or appointing multiple partners.
- **Risk of brand dilution:** The distributor may not uphold the same quality standards in marketing and service. Poor after-sales service by a distributor can hurt the supplier's reputation.

a) Exclusive distribution

Advantages for suppliers:

- **Streamlined communication:** Working with a single distributor simplifies communication and relationship management, reducing administrative burdens and fostering closer collaboration.
- **Focused investment:** The exclusive distributor is more likely to invest in marketing, brand-building, and after-sales support due to the security of exclusivity.
- **Brand control:** Suppliers maintain higher control over how their products are marketed and sold, helping protect brand image and reputation.
- **Market insights:** Exclusive distributors are often deeply embedded in their markets and can provide valuable feedback on consumer preferences and competitor activities.
- **Loyalty and commitment:** Exclusivity incentivises the distributor to prioritize the supplier's products, leading to stronger brand loyalty and potentially higher sales.

Disadvantages for suppliers:

- **Dependency risk:** The supplier becomes highly dependent on the performance of a single distributor. If the distributor underperforms, market access and sales can suffer significantly.
- **Limited market Reach:** relying on one distributor may restrict the supplier's ability to reach all potential customers, especially in large or diverse markets.
- **Legal and competition risks:** Exclusive agreements can attract scrutiny under competition law and may be illegal or subject to challenge in some jurisdictions.
- **Termination complexity:** Ending an exclusive relationship can be disruptive and requires finding and ramping up new partners.

Advantages for distributors:

- **Market exclusivity:** The distributor faces no direct competition (in the sense of active sales by other companies) for the supplier's products within the

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territory, allowing for greater market share and customer loyalty.

- **Supplier support:** Exclusive distributors often receive enhanced support, such as marketing resources, training, and preferential pricing.
- **Security and stability:** The exclusivity provides a stable business environment, encouraging greater investment in the supplier's brand.
- **Brand association:** Being the sole distributor can strengthen the distributor's reputation and association with a prestigious or high-quality brand.

Disadvantages for distributors:

- **Sales pressure:** The distributor may face minimum purchase or performance obligations, increasing pressure to deliver results.
- **Business risk:** The distributor is heavily reliant on the supplier's product line, making them vulnerable if the supplier's products decline in popularity or are withdrawn. Exclusivity rights are often linked to non-compete obligations, prohibiting the distributor from also selling products of other manufacturers.
- **Market limitations:** The distributor's growth is limited to the assigned territory or customer segment; (active) expansion outside this scope is usually prohibited.

b) Selective distribution

Advantages for suppliers:

- **Brand protection:** Suppliers can maintain strict control over how and where their products are sold, preserving brand image and customer experience.
- **Quality assurance:** By selecting only qualified distributors or retailers, the supplier ensures that products are presented and serviced to a high standard.
- **Wider market coverage:** Compared to exclusive distribution, selective models allow for broader reach while still controlling the sales environment.
- **Prevention of grey market sales:** Limiting sales to authorised channels helps prevent products from leaking into unauthorised or discount channels, which may damage the brand.
- **Flexibility:** The supplier can adapt the network by adding or removing partners based on performance or market changes.

Disadvantages for suppliers:

- **Administrative complexity:** Managing selection criteria and monitoring compliance across multiple partners can be resource intensive.
- **Potential for disputes:** Disagreements may arise

over selection criteria, network changes or perceived unfair treatment among distributors.

- **Risk of leakage:** Products may still find their way into unauthorised channels, undermining the system's integrity.
- **Investment requirements:** The supplier may need to invest more in training and supporting multiple partners to maintain standards.

Advantages for distributors:

- **Brand prestige:** Being selected as an authorised distributor can enhance reputation and attract customers seeking quality assurance.
- **Supplier support:** Distributors in selective networks often receive training, marketing support, and access to premium products.
- **Reduced competition:** Within the network, competition is limited to other authorised distributors, not the entire market.
- **Customer trust:** Customers may prefer buying from authorised distributors, leading to increased sales and loyalty.

Disadvantages for distributors:

- **Compliance burden:** Distributors must meet and maintain strict selection criteria, which may require ongoing investment in facilities, staff, or processes.
- **Limited autonomy:** Distributors are subject to restrictions on their sales strategies and ability to sell outside the authorised network.
- **Risk of exclusion:** Failure to meet the supplier's standards can result in removal from the network, leading to loss of business.
- **Uncertain tenure:** The supplier may periodically review and revise the network, creating uncertainty for distributors.

6. Specific points of attention for the distribution (or dealer / reseller) model

Distribution (dealer and reseller) systems are subject to European and national competition regulation and must be implemented and maintained in a compliant way:

The exclusive distribution system is permissible in particular if neither the supplier nor the distributor has a market share above 30% on the relevant market of the product or the service and the exclusivity for a territory or group of customers cannot be granted to more than five distributors.

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The implementation of a selective distribution system is permissible in particular if the following criteria are met (Metro-criteria): (i) the nature of the goods or services in question must necessitate a selective distribution system, (ii) resellers must be chosen on the basis of objective qualitative criteria and (iii) the criteria laid down must not go beyond what is necessary.

If these requirements are not met, the distribution agreements resp. the implementation of an exclusive or selective distribution system must be further assessed under competition law.

IV. FRANCHISE MODEL

1. General description of the franchise model

The franchise business model is a licensing arrangement where a business (the franchisor) grants another party (the franchisee) the right to operate a business using its brand, systems, and intellectual property in exchange for fees and royalties. This model allows for scalable expansion without requiring the franchisor to fund and manage each location themselves.

The franchisor generally:

- Develops the brand and business system.
- Licences trademarks, trade secrets, products, and services.
- Provides initial training and ongoing support.
- Maintains control over brand standards and operations.

The franchisee generally:

- Invests capital to open and operate a unit.
- Follows the franchisor's standardized procedures.
- Pays ongoing franchise, licence or royalty fees to the franchisor.
- Manages the day-to-day business at their location.

In many countries around the world, legislation to deal with franchise has been developed. One of the areas which is often regulated, is the requirement to disclose certain information. This is often being referred to as the "Franchise Disclosure Document", or the "FDD" which needs to be submitted to the franchisee, and in which detailed information is being disclosed about the franchisor's business, legal history, financials, and obligations.

Initially franchise started with fast food franchising, with the most famous example being McDonald's, KFC and Burger King followed similar models. These companies standardized everything; menus, layouts, uniforms, and grew rapidly through franchising.

Currently franchising has expanded beyond food into retail, hospitality (including hotel chains), education, fitness business services and medical clinics. Franchise in a B2C context is much better known, but franchise in a B2B context also exists.

2. Ownership of the products; does it transfer, if so, how?

In a franchise system where products are being sold, typically the franchisor, or parties appointed by the franchisor, deliver the products to the franchisees, who in their turn sell the products to the (end) customers. In such situations, usually the franchisee is the party who bears the stock risks. However, this can be different for example in "push" delivery systems which can be used by supermarket chains, where the franchisor has implemented an automated system and automatically sends new products to the franchisee when the system indicates a certain product is almost sold out.

3. Who concludes the contract with the buyer / customer?

Typically, the franchisee concludes the agreement with or rather sells the products or services to the buyer / customer. For the customer it will often not be clear, as a result of the uniformity of the stores, whether a store forms part of the chain owned by the brand, or whether he actually deals with a franchisee.

4. Who runs the credit / payment risks?

Usually, the franchisee is the party who runs the credit and payment risks, as the franchisee is the party who generally will sell the products or services to the buyer / customer.

5. Advantages and disadvantages of the franchise model

Advantages for franchisors:

For franchisors, franchising is an efficient way to scale a brand with minimal direct capital investment.

- Franchising allows companies to grow quickly without needing to raise large amounts of capital.
- Franchisees fund the setup of each new location, reducing the franchisor's financial exposure.

- Earn from upfront franchise fees, royalties, product sales, and marketing contributions.
- Geographic expansion helps build national or international brand recognition.
- Franchisees are invested in the business and often more motivated than hired managers.

Disadvantages for franchisors:

- Franchisees operate independently, which can lead to inconsistent service or branding.
- A poor-performing franchisee can harm the entire brand's reputation.
- Franchisors must provide training, support, and compliance monitoring, which requires resources.
- Franchising involves complex legal obligations and liabilities, especially across countries.
- Disputes may arise over fees, territory, or non-compliance with franchisor rules.

Advantages for franchisees:

For franchisees, franchise offers an easier path to entrepreneurship, but with strings attached.

- Lower risk because the business has a track record of success.
- Immediate customer trust and market presence.
- Franchisors often provide marketing, operations, and staff training support.

- Access to national advertising and promotional campaigns.
- Banks are more likely to lend to a franchise with a successful reputation.

Disadvantages for franchisees:

- Franchise fees, equipment, setup, and licensing can be significant.
- Royalties and marketing contributions reduce profits.
- Must follow the franchisor's rules, systems, suppliers, and branding standards.
- Negative publicity from other franchisees affects all locations.
- Franchise agreements often include restrictive terms (e.g., non-compete clauses, resale limitations).

6. Specific points of attention for the franchise model

In many jurisdictions around the world, franchise has been regulated, protecting the franchisees. More specifically in many countries exist pre-contractual disclosure obligations for franchisors. When those obligations have not been met, the consequences for the franchisor may be severe, like for example annulment of the franchise agreement, compensating damages suffered by the franchisee etc.

V. LICENCE MODEL

1. General description of the licence model

In the framework of distribution business models, the licence is a business model based on an intellectual property right, mainly a distinctive sign ("trademark"), registered or not, with which certain products or services are put on the market.

Generally speaking, the owner of a trademark authorises a third party to use its trademark in order to manufacture and distribute certain products, against the payment of a sum (that can be fixed, as a lump sum, or more frequently a periodic royalty).

The relationship between the owner of the trademark ("licensor") and the entity that is authorised to use that trademark ("licensee") is generally based on a written

contract, in which are regulated all the aspects of the authorised use of the trademark.

The licence can be 1) limited to particular products (with a set of quality standards to be attained), 2) limited to a certain territory, 3) exclusive or non-exclusive, depending on the fact that the owner of the trademark licenced wants to maintain the power to use himself and/or to give the same authorisation to other parties.

2. Ownership of the products; does it transfer, if so, how?

In this business model the products are owned by the licensee which manufactures and commercializes the products indicated in the licence contract under the

trademark. The licensee will be typically responsible for the distribution of the licenced products in a certain market, usually identified by a territory.

3. Who concludes the contract with the buyer / customer?

Generally, the contract with the buyer/customer is concluded by the licensee, that recognizes a royalty, a percentage, to the licensor based on the sales of the products.

4. Who runs the credit / payment risks?

Usually, the licensee is the party who runs the credit and payment risks, as it is the party who manufactures and sells the products to the buyer / customer. If the licensee does not sell the products, then the licensor does not receive royalties; therefore, in such a case the economic risk is on both parties. If a territorial exclusivity is granted, normally the licensor, which renounces to a market, negotiates the payment of a minimum amount of royalty each year of duration on the contract, reallocating in this way the economic risk on the licensee.

5. Advantages and disadvantages of the licence model

Advantages for the licensor:

For the licensor this business model is a way to maximize the profits, by exploiting the values of the trademark, since it has no risks connected with the costs of production.

The licence model is used when a trademark owner cannot reach a certain market itself and, therefore, appoints a licensee to exploit the trademark in such market.

In particular, the advantages for the licensor are:

- No risks connected with production and selling (with reference to the costs).
- No risks connected with the security of the products.
- Penetrate the market in a comprehensive manner.

Disadvantages for the licensor:

Otherwise, the disadvantages for the licensor can be:

- Less of control in order to the quality of the products (if not specifically regulated in the contract).
- In case of exclusive licence, compression of its entrepreneurial freedom.

Advantages for the licensee:

For the licensee, this business is a way to take advantage from a third-party trademark (that can be a famous and well-known trademark) and generate a high turnover without the costs connected with the management of a trademark (mainly advertisement costs).

Disadvantages for the licensee:

Also, for the licensee there could be disadvantages:

- The licensor can fix a high standard of quality of the products.
- The licensor can fix a high royalty and a enter fee to be paid for the use of the trademark.
- If the licence is an exclusive licence, there could be a minimum guaranteed of royalty to be paid each year in order to give a sure income to the licensor.

6. Specific points of attention for the licence model

For the licensor it is crucial to choose a licensee, which has the skills to create value for the trademark. The licensee should not, in any way, damage the reputation or dilute the trademark.

As far as the licensee is concerned, it is essential that the licensee has the capabilities to fulfil the obligations arising out from the contract, first of all to manufacture the licenced products according to the criteria given by the licensor.

VI. ONLINE DISTRIBUTION MODELS

In recent years, the distribution of products and services has undergone significant change. This shift is largely attributable to rapid technological progress, evolving consumer expectations, and the growing role of data-driven decision-making in business. Consequently, traditional distribution models – previously regarded as the standard for commercial transactions – are now frequently supplemented or replaced by innovative online and digital approaches. The following chapters therefore present a selection of online and new distribution models that have proven particularly relevant in practice.

1. Mobile commerce

a) Description of characteristics

Mobile commerce (“**m-commerce**”), refers to e-commerce conducted via mobile devices like smartphones, mobile phones, and tablets, utilizing mobile broadband connections. It allows consumers to purchase goods and services at any time and from any location (e.g., via an app). M-commerce is thus also referred to as “anywhere commerce”. The increase of smartphones, improved mobile internet connections (e.g., through 5G), and changing consumer behaviour have led to mobile devices becoming the preferred shopping medium for many people.

In Germany, approximately 24.4% of the population made a purchase via mobile phone each week in 2023. On a global scale, South Korea leads with 44.4% of its population engaging in weekly mobile purchases³. This upward trend is expected to continue, highlighting the growing significance of m-commerce within the global e-commerce landscape.

b) Legal framework

The legal foundation of m-commerce is primarily rooted in general civil law, particularly the regulations governing e-commerce. Contracts between sellers and consumers concluded via mobile devices are subject to the same rules as other distance contracts, including mandatory information obligations and the right of withdrawal for consumers.

- The provision of legally required pre-contractual information and the effective incorporation of general terms and conditions have been a considerable challenge in the past, as mobile devices typically have small screens on which lengthy text is difficult to read. According to recital 36 and Article 8(4) of the Consumer Rights Directive “in the case of distance contracts, the information requirements should be adapted to take into account the technical constraints of certain media, such as the restrictions on the number of characters on certain mobile telephone screens”.
- Article 5 of the E-commerce Directive further stipulates that companies must provide certain information about their identity and contact details.

From a data protection perspective, sellers are required to provide a privacy policy when processing personal data and, where applicable, obtain user consent for such processing:

- Usually, the provision of e-commerce offers includes the processing of the IP address of the user which is automatically transmitted from the used browser to the server each time a website is accessed. According to some data protection authorities (e.g., in Germany), the IP address qualifies as personal data regardless of whether the operator of the website had the additional information required to identify the person or connection to which the IP address was assigned at the time. This means that every website, including those in m-commerce, should provide a privacy policy that informs users at least about the processing of their IP address.
- A key data protection issue in m-commerce is the processing of location data. These are often used to provide location-based services or for location-based advertising. Location data can range from broad information such as postal codes to precise GPS coordinates. Whether such data is considered personal depends on whether it can be linked to a specific user. Some data protection authorities take the view that location data transmitted via a digital service is always personal data, as it is always transmitted together with the IP address (see above). Therefore, a legal basis for the processing of such data is required, e.g. a clear, informed, and voluntary consent from the user.

³ <https://de.statista.com/themen/1347/mobile-commerce/#topicOverview>

c) Advantages and disadvantages

Advantages:

The main advantage of m-commerce for the user – the high level of flexibility when shopping – has already been mentioned above. But there are also considerable advantages for the seller:

- M-commerce offers a wide range of marketing opportunities. Push notifications, personalized offers, and mobile advertising reach the consumer directly on their mobile devices and help build a stronger connection.
- By collecting and analysing personal data such as location and past purchasing behaviour, it is possible to deliver personalized recommendations and offers that are precisely tailored to each user's individual interests and needs.

Disadvantages:

However, m-commerce also entails certain disadvantages:

- Compliance with statutory information obligations and the inclusion of terms and conditions must be ensured – even on small screens.
- The conversion rate – the ratio between orders received by the store operator and users who visit the online store – is many times lower than for users who visit the store using conventional computers. The reason for this difference is often seen in the fact that the content is not adapted to the smaller screens of mobile devices. Ensuring user-friendly operation is therefore a decisive factor in the purchase decision.
- Dependence on third-party providers such as app stores can also be problematic for sellers, for example if they impose their own rules for the presentation of offers or the processing of payments.
- App stores often retain a share of the sales, which reduces the profit margin.

2. Social commerce

a) Description of characteristics

Social commerce (“**s-commerce**”) refers to the direct sale of products or services via social media. The entire shopping experience – from discovery to research to purchase – takes place within social platforms, without consumers having to switch to external websites. This means that companies do not necessarily need their own

online store but can market their offerings directly via so-called “shoppable content” such as posts, reels, or stories. In this respect, m-commerce and s-commerce are complementary to each other.

Recent studies indicate that 53 % of the “Generation Z” consumers purchase new products through social media platforms such as Instagram and TikTok. The discovery rate of new products on social media platforms is even higher at 68 %.⁴

b) Legal framework

In the context of s-commerce, several legally relevant contractual relationships arise between the parties involved:

- First, there is a contractual relationship between the purchaser and the seller of the relevant product. The purchase agreements concluded in each case are distance contracts with all associated information obligations and consumer rights (Consumer Rights Directive).
- Second, there is a usage relationship between the purchaser or seller on the one hand and the social platform operator on the other hand, which provides the technical infrastructure through which the purchaser can search for, compare, and purchase products and allows sellers to utilize the platform's sales functions.
- Third, there may also be a contractual relationship between the seller and external players involved such as influencers. The respective structure and content of these marketing contracts is key, as this may also result in far-reaching legal rights and obligations, for example if an influencer acts as a commercial agent.

In principle, companies that are active on social media must comply with all requirements that generally apply in the field of e-commerce:

- Sellers should identify themselves as businessmen by using a business account and must provide a complete legal notice (Article 5 of the E-commerce Directive).
- Companies also must ensure that their own activities comply with data protection law. Joint controllership for data processing may also arise with the social media platform. In such cases, a transparent arrangement is required to clarify who is responsible for which data protection obligations and to inform users thereof in the privacy policy.

⁴ Capgemini, *What matters to today's consumer, 2025 consumer behaviour tracker for the consumer product and retail industries*, p. 5.

- Particular care must be taken to ensure that advertising is clearly recognizable as such (Unfair Commercial Practices Directive; Audiovisual Media Services Directive).

c) Advantages and disadvantages

Advantages:

This type of e-commerce has a significant advantage for online sellers and companies:

- They can reach their target audience where they already are.
- The consumer base is not limited to young people - there is a social network for social selling for almost every age group.
- The risk of shopping cart abandonment is lower with s-commerce because consumers can buy products directly in the app without having to navigate to a separate page, log in, and fill in payment details.
- Through high-quality content and tailored ads, companies can use s-commerce to address their target group much more specifically than is possible with traditional e-commerce.

Disadvantages:

However, there are also some disadvantages associated with s-commerce:

- The barriers to entry are low, which leads to fierce competition. Visibility often has to be bought at a high price through advertising, and for smaller sellers it can be difficult to compete with big brands.
- Unlike with their own online shops, sellers have less control over design, user guidance, and data analysis in s-commerce. Sellers are also heavily dependent on the rules, algorithms, and technical conditions of social media platforms. Changes in terms of use, reach restrictions, or advertising guidelines can have a direct impact on visibility and sales.

3. Online marketplaces and platforms

a) Description of characteristics

In contrast to the term “web shop” (or “online store”), the term “platform” or “marketplace” typically refers to situations that are multi-sided or are not limited to two-person relationships. In the questionnaire issued as part of the Digital Single Market sector inquiry, the European

Commission defines the term “marketplace” as a “website/app where sellers can offer products for sale and advertise and on which users can purchase these products”.

In recent years, sales through online marketplaces and platforms have become a central component of digital commerce. This is because online platforms such as Amazon, eBay, or Etsy allow sellers to offer their products without the need to create their own online store. In addition, sellers benefit from the platform’s broad reach, established infrastructure, and the high level of consumer trust these platforms typically enjoy.

b) Legal framework

The platform operator can have various roles:

- In an intermediary role, the platform operator often acts without itself becoming a contractual partner in the transaction. It offers the seller a platform or an additional sales channel for distributing its products, but the platform does not itself purchase these products for the purpose of reselling it to the (end) customer. The platform merely matches the seller and the consumer and organises – in whole or in part – the management of the transaction, often including payment processing and logistics. The platform charges the seller and/or the (end) consumer a fee for these services (brokerage and organisation), although in practice the focus of the remuneration is likely to be on the commission paid by the seller to the platform.
- As vicarious agent, the platform operator can act as an agent for various services such as shipping or payment processing, also without being a contractual partner itself.
- In some cases, the platform operator acts as the seller itself, either for its own products or for products it obtains from third-party providers, as own-brand retailers.
- As with s-commerce, a distinction can be made between the following contractual relationships:
- The purchasing agreement is concluded between seller and end customer. In terms of contract law, this includes, in particular, the complex provisions of distance contracts (including, in the case of consumer goods purchases, extensive information requirements and the right of withdrawal under the Consumer Rights Directive), the law governing e-commerce (E-commerce Directive), the law governing general terms and conditions, and potential further consumer protection laws form the benchmark for the drafting of these contracts.

- The contractual relationship between the platform and the end customer does not usually affect the purchase contract, unless the platform operator itself offers products for sale and therefore is contracting party.
- Between seller and the platform, a platform usage agreement is concluded, which rules the fees, obligations and other terms and conditions regarding the provision of the platform. Depending on their structure, such platform provider contracts regularly contain aspects of service, rental and work contracts as well as elements of agency agreements for a fee.

c) Advantages and disadvantages

Advantages:

The main advantages are as follows:

- Fast market access without building an own e-commerce infrastructure.
- Online marketplace and platform brands also stand for high credibility for the seller's products. Sellers can therefore profit from the market strength of online

marketplaces and online platforms.

Disadvantages:

On the other hand, the following disadvantages must be considered:

- Sellers are bound by the terms and conditions of the platform. This not only leads to restrictions on how their products can be presented. Also, the processing of payment and refund is structured by the online platform and underlies their conditions. For example, Amazon regulates its guarantee under the "A-to z Guarantee" for external sellers and decides on their own terms if the end customer has a right of refund.
- Prices can be directly compared on the platform. This leads to high price pressure and, in some cases, very low margins. Sellers often must charge the same prices in their own shops or even in stores as on the platform to avoid confusion among consumers.
- Sellers on online marketplaces usually must pay fees and commissions to the platform operators.

VII. NEW DISTRIBUTION MODELS

1. Subscription commerce

a) Description of characteristics

Subscription commerce refers to a business model in which customers receive products or services on a regular basis – for example, monthly or quarterly – as part of a subscription and make recurring payments automatically. The desire of many customers for tailor-made solutions that save time and simplify everyday life has contributed to subscription models now playing a central role in many industries, from food and fashion to software. Well-known examples of subscription commerce include HelloFresh for meal kits, Glossybox for cosmetics, and Amazon Subscribe & Save for household goods.

b) Legal framework

From a contractual perspective, subscription commerce entails ongoing obligations that may be either for a fixed term or indefinite in duration. Particular attention must be paid to the automatic renewal and termination of

subscriptions. At the European level, the Unfair Terms Directive requires companies to use fair and transparent contract terms. In addition, specific legal requirements at national level must be observed. For example, in Germany, contracts with consumers may only be extended for an indefinite period after the minimum term has expired and must then be able to be terminated monthly. In addition, companies that offer consumer contracts in electronic commerce are obliged to provide a simple and easily accessible option for termination – the so-called "termination button" (Section 312k German Civil Code).

c) Advantages and disadvantages

Advantages:

Subscription commerce offers many advantages:

- Companies benefit from regular, recurring revenue, making sales forecasting easier.
- At the same time, the model enables a continuous relationship with the consumer, allowing for personalized offers, targeted marketing, and better

product development based on user data.

- For consumers, subscription commerce offers convenience and time savings, as products or services are automatically delivered or provided – often at a lower price than when purchased individually.

Disadvantages:

However, there are also disadvantages that need to be considered:

- On the seller side, there is a risk of high cancellation rates if consumers find the subscription too inflexible or not transparent enough.
- For customers, subscription commerce can become a cost trap if subscriptions continue unnoticed or are difficult to cancel.
- The risk of oversupply – i.e., receiving products that are no longer needed – should not be underestimated. This not only leads to customer frustration but is also unsustainable and carries the risk of wasting resources.

2. D2C commerce

a) Description of characteristics

Direct to consumer commerce (“D2C commerce”) enables manufacturers to distribute their products directly to the end customers. This distribution form enables manufacturers to act (relatively) independently from other players like business or distribution partners. The manufacturer has control over the branding, marketing and the product itself. Some D2C brands are leveraging social media intensively, making social commerce and D2C commerce potentially complementary strategies.

b) Legal framework

Any party placing products on the market or deemed to be the manufacturer is subject – unlike in mere commercial trading – to specific legal obligations and requirements that must be thoroughly assessed prior to market introduction. Manufacturer status in the sense of product liability may be conferred even in cases where the product has not been physically produced by the party itself. For example, importing a product or having it manufactured by a third party may suffice to establish such status, provided the product is marketed under the party’s own name or brand. In this respect, seller must, for example, comply with the provisions of the General

Product Safety Regulation and the Packaging and Packaging Waste Directive.

Since no intermediary is involved in direct-to-consumer (D2C) distribution, the end consumer holds contractual rights directly against the manufacturer as the contracting party. Consequently, the manufacturer must establish internal processes to handle corresponding inquiries and claims independently.

c) Advantages and disadvantages

Advantages:

This form of distribution has several advantages:

- It allows manufacturers to act relatively independently, as there is no immediate need to involve additional business or sales partners in decision-making. As a result, greater focus can be placed on the product itself and on direct interaction with consumer – allowing full control over the product, branding, and marketing strategy.
- With direct sales, manufacturers benefit more directly from the growth of e-commerce. At the same time, they strengthen their brand and move closer to their customers. It often enables the creation of a loyal consumer community that identifies with the product and the brand.
- The D2C concept aligns well with today’s zeitgeist, in which consumers increasingly seek to purchase not just a product, but also a “feeling,” while companies place greater emphasis on social responsibility and individuality.
- Manufacturers gain direct access to their consumers’ data, which can be used in marketing, for example, for personalized communication.

Disadvantages:

However, D2C commerce can also have its drawbacks:

- Production and marketing may be resource-intensive – not only financially, but also in terms of time, particularly due to the high level of customer engagement required. This is especially relevant when it comes to handmade or self-produced goods, where the time invested in production and consumer interaction should not be underestimated.
- Logistics also poses a challenge: customers expect fast and reliable deliveries, which places high demands on warehousing, shipping, and returns management. Manufacturers must compete with online marketplaces like amazon, who guarantee delivery on the next day.

EU COMPETITION LAWS APPLICABLE TO VERTICAL AGREEMENTS

Comparative Legal Study Distribution Models

The European Union (“EU”) has passed a block exemption on vertical agreements and concerted practices, the VBER, that exempts agreements that comply with certain conditions.

The VBER establishes a safe harbour for vertical agreements, provided the market share held by the supplier and the buyer does not exceed 30 percent of the relevant markets (Market Share Threshold).

Article 101 TFEU prohibits agreements between companies that have as their object or effect the restriction of competition. Both distribution and agency agreements are vertical agreements and may therefore infringe this prohibition. If a vertical agreement does not meet the Market Share Threshold established by the VBER conditions, it is presumed not to infringe Article 101 TFEU.

I. DISTRIBUTION (OR DEALER/RESELLER) AGREEMENT

This agreement is exempted and considered legal if it meets two main conditions:

- Market share threshold: the market share of the supplier and distributor may not exceed 30% in their respective reference markets.
- Absence of hardcore restrictions:
 - Maintenance of resale prices (RPM).
 - Territorial or customer restrictions that prevent passive sales.
 - Restrictions on online sales not justified by objective criteria.

Under the VBER, key types of distribution agreements include:

1. Exclusive distribution

Under Article 1(1)(h) of VBER, an “exclusive distribution system” is one in which the supplier allocates a territory or group of customers exclusively to itself or to a maximum of five buyers, while restricting all other buyers from active selling into that exclusive territory or customer group. Typically, this means that a distributor may be protected from active intra-brand competition in a

I. DISTRIBUTION (OR DEALER/RESELLER) AGREEMENT

defined territory. Provided the parties avoid hardcore restrictions and remain below the Market Share Threshold, exclusive distribution agreements can generally be block exempted.

2. Selective distribution

Under Article 1(1)(g) of VBER, a “selective distribution” is defined in as a system where the supplier sells only to distributors selected based on specified criteria, and where those distributors agree not to sell to unauthorised distributors within the reserved territory. Such criteria may be quantitative, by limiting directly the number of distributors, and qualitative, often concerning product range to be sold, the training of sales personnel, the service to be provided at the point of sale or the advertising and presentation of the products. Typically, this means that a distributor may be protected from active and passive sales by unauthorised distributors. Provided the parties avoid hardcore restrictions and remain below the Market Share Threshold, selective distribution agreements can generally be block exempted.

3. Dual distribution

Scenarios of dual distribution concern the two exceptions to the general rule that the block exemption does not

cover agreements between competing undertakings (Article 2(4) VBER):

- A supplier of goods sells at multiple levels of trade while the buyer sells only at the downstream level and does not compete at the supplier’s upstream level.
- A service provider operates at multiple levels of trade while the buyer provides services only at the retail level and is not a competitor at the level where it purchases the contract services.

Therefore, they apply only to non-reciprocal vertical agreements, meaning the buyer does not supply competing goods or services to the supplier, although the supplier effectively competes with its own distributors at the downstream level.

The underlying rationale is that potential negative effects on competition at the downstream level are outweighed by the pro-competitive benefits that can arise at the upstream or downstream levels. However, the scope of permissible information exchange under such dual distribution scenarios is narrowly construed: only information directly related to and necessary for the implementation of the vertical agreement and the improvement of production or distribution qualifies for protection. Any other information exchange may fall outside the block exemption and therefore require individual analysis under Article 101 TFEU.

II. FRANCHISE AGREEMENT

Franchising generally involves a franchisor granting a franchisee the right to exploit a business method or concept, including know-how, trademarks, or other intellectual property in exchange for fees or royalties. Franchise agreements often require the franchisee to abide by brand uniformity and quality standards and impose prevention from know-how utilization. If these obligations are strictly necessary to protect the

franchisor’s intellectual property and brand image, they may fall outside Article 101(1) TFEU altogether.

Where the agreement imposes vertical restraints (e.g., territorial limitations, selective criteria, or non-compete obligations), it may fall under the VBER block exemption, provided the relevant Market Share Threshold and avoidance of hardcore restrictions are respected.

III. LICENSING AS A DISTRIBUTION AGREEMENT

The VBER covers vertical agreements containing IP provisions if those provisions are secondary to the primary purpose of buying or selling goods or services, and do not include hardcore restraints (e.g., resale price maintenance). In practice, a trademark or know-how licence accompanying product distribution often falls within the VBER's scope, provided it is necessary for marketing the licensed goods/services and directly tied

to their sale or resale. If IP is the main object of the agreement, such as a pure licensing deal without the ongoing supply of goods, the arrangement may lie outside the VBER's safe harbour. In such cases, businesses must individually assess whether competition concerns arise, considering factors like exclusivity, market share, and potential constraints on parallel imports or passive sales.

IV. ONLINE DISTRIBUTION MODELS

Under Article 1(1)(e) of VBER, "online intermediation services" ("OIS") means information society services normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services which allow undertakings to offer goods or services to other undertakings or to final consumers. OIS are commonly referred to as online or digital platforms, such as marketplaces or app stores that facilitate direct transactions between suppliers and buyers (including final consumers). Under VBER, an OIS provider is generally considered a "supplier" of those intermediation services and business users as "buyers".

These agreements typically benefit from the VBER block exemption, provided the parties do not exceed the Market Share Threshold and avoid hardcore restrictions, notably broad bans on online sales or across-platform retail parity clauses. However, if the intermediation service provider also competes in the market for the same goods or services ("hybrid" function), the agreement may be excluded from block exemption and require an individual Article 101 TFEU analysis and be assessed under the Horizontal Guidelines as regards possible collusive effects and under Section 8 of these Guidelines as regards any vertical restraints.

V. FREE (NON-EXCLUSIVE) DISTRIBUTION

Free (non-exclusive) distribution systems occur when suppliers do not apply the qualitative or quantitative admission criteria of selective distribution or allocate specific territories/customers via exclusive distribution. Under this approach, multiple distributors may independently purchase and resell the same goods, which can foster competition but may also give rise to free-rider problems since each distributor may rely on the efforts of others to promote the product. Typically, these agreements entail minimal restrictions on how or where distributors may resell goods or services. To benefit from the block exemption, these non-exclusive agreements must avoid hardcore restrictions, parties remain below the Market Share Threshold.

VI. AGENCY AGREEMENT

Agency agreements are, as a general rule, excluded from the scope of Article 101 TFEU. For an agreement to be considered as an agency agreement, the agent must meet one of the following criteria: (i) he does not assume risks relating to contracts concluded/negotiated on behalf of the principal, investments intended for the market, or other activities in the product market, or (ii) he assumes risks of this nature, but these are insignificant. The Vertical Guidelines introduce a standard for assessing this criterion. Thus, as a general rule, its relevance must be assessed on the basis of the remuneration obtained by the agent in return for its services (e.g., its commission), and not on the basis of the revenue generated by the sale of the goods or services covered by the agency contract.

The Vertical Guidelines also clarify the requirements that must be met in order for the principal to be considered to be bearing the relevant costs and risks. The European Commission considers it acceptable for this assumption to be made, for example, by compensating the agent by reimbursing the exact costs incurred or by paying a fixed percentage of the profits made under the agency contract. The method chosen must allow the agent to easily distinguish between amounts used to cover relevant risks and costs and other amounts paid to the agent (e.g., their commission).

The European Commission points out that additional measures may be necessary: for example, providing the agent with a simple method for declaring and requesting reimbursement of any costs exceeding the agreed fixed amount or percentage, or monitoring changes in costs relevant to the agent in order to adjust the amount of compensation. Similarly, if the principal chooses to compensate the agent with a fixed percentage of profits, the principal should take into account that the agent may incur investment costs even if its sales are low or non-existent, and act accordingly. The key is, ultimately, that the agent is fully compensated and does not incur significant risk.

LEGAL FRAMEWORK; APPLICABLE LAWS PER COUNTRY

I. BELGIUM

1. Are the several distribution models codified in local laws and if so, what laws apply?

a) Commercial agency model

Codified.

- Governed by Book X, Title 1 of the Belgian Code of Economic Law.
- Transposes the Commercial Agents Directive.
- A commercial agent is a self-employed intermediary who is permanently authorised to negotiate and possibly conclude sales or purchase contracts in the name and on behalf of a principal.
- Provides detailed rules on contract formation, agent's rights/duties, remuneration, termination, and indemnity.

b) Commissionaire or consignment model

Not explicitly codified but recognized under general Belgian civil and commercial law.

- A commissionaire acts in their own name but on behalf of the principal (no direct contract between supplier and customer).
- Consignment involves delivery of goods to a reseller

who pays only after sale (ownership often remains with supplier until sold).

Applies under:

- Belgian Civil Code (Book 5 – Contracts).
- General commercial principles.
- No protective regime like for agency.

c) Distribution model

Partially codified.

- The Belgian law does not define the “distributor”, as such. However, Article I.11 of the Belgian Code of Economic Law defines a “distributorship contract” as follows: “Every contract by which the supplier, who grants the distributorship to one or more distributors, offers the right to sell the products manufactured or distributed by the supplier, in their own name and for their account”.
- Articles X.35 to X.40 of the Belgian Code of Economic Law apply to the termination of exclusive or quasi-exclusive distributorship contracts of an indefinite duration executed in Belgium (previously the “Act of 27 July 1961”).
- In addition, other (more general) sections of the Belgian Code of Economic Law apply (the list below is not exhaustive):

- Article I.11, 2° and Articles X.26 to X.34 of the Belgian Code of Economic Law, regarding the disclosure of “Pre Contractual Information in Relation to Commercial Partnership Agreements” (“the Act on Precontractual Information”).
- Book IV of the Belgian Code of Economic Law, regarding national competition rules.
- Rules regarding market practices, in particular the new provisions regarding unlawful contractual clauses in B2B relationships, abuse of economic dependence and misleading and aggressive market practices introduced into the Belgian Code of Economic Law by the Law of 4 April 2019.

d) Franchise model

Partially codified.

- Book X, Title 2 of the Belgian Code of Economic Law requires mandatory pre-contractual disclosure:
 - Disclosure must take place at least one month before signing.
 - It must contain specific information (financials, obligations, IP rights, etc.).
- But the franchise agreement itself is not specifically regulated – general contract law applies.

e) Licence model

Not codified as a standalone model.

- Governed under:
 - Contract law.
 - IP law, particularly for software, trademarks, patents (Book XI of the Belgian Code of Economic Law).
- No protective rules for licensors/licensees.

f) Online distribution models

Not separately codified. But key applicable laws include:

- E-commerce law (Book XII of the Belgian Code of Economic Law – Digital economy).
- Consumer protection laws (Books VI and XIV of the Belgian Code of Economic Law).
- Competition law (including vertical restraints under the VBER).
- Platform-to-Business Regulation.

With respect to online distribution models, it really depends how the model is being structured whether under Belgian law it would qualify as commercial agency, distribution, franchise or commissionaire etc. It can also be a mixed agreement with elements from different distribution models. When it is a mixed agreement, generally the laws apply with the strongest elements.

g) New distribution models (e.g. marketplaces)

Not codified as standalone categories. But subject to:

- General contract law.
- Consumer and digital laws.
- Competition law.
- Regulatory scrutiny when platforms control access to markets (abuse of dominance, etc.).

2. Is generally a goodwill or compensation payable upon termination by the supplier?

a) Commercial agency model

Yes – mandatory indemnity or compensation.

Article X.18 of the Belgian Code of Economic Law provides that, upon the termination of a commercial agency agreement, the agent is entitled to compensation or indemnity if they have contributed to the establishment of a customer base that continues to benefit the principal. This compensation is intended to recognize the agent's efforts in developing the market, and it can be equivalent to up to one year's remuneration (commission), unless the termination is due to the agent's fault.

The principal may also have to compensate the agent when it has not respected the required notice period (one month per year of service of the agent, up to a maximum of six months).

b) Commissionaire or consignment model

When the commissionaire agreement is terminated in accordance with the contractual provisions, or when a reasonable notice period has been observed, there is no goodwill compensation payable.

c) Distribution (or dealership / reseller) model

For distributorship contracts not falling under the scope of Book X.III of the Belgian Code of Economic Law

(previously the Act of 27 July 1961), the terminated distributor shall not be entitled to a goodwill indemnity.

For distributorship contracts falling under the scope of Book X.III of the Belgian Code of Economic Law (previously the Act of 27 July 1961), the following rules apply: Pursuant to Article X.37 of the Belgian Code of Economic Law, the distributor might be entitled to a goodwill indemnity if this distributorship is terminated unilaterally for reasons other than serious failure on his part or if he terminates the distributorship as a result of serious failure by the supplier. The fact that the distributor has been given a reasonable notice period or an indemnity in lieu of notice is without relevance for the payment of the goodwill indemnity.

Such indemnity relates to three elements: (i) a clientele, (ii) redundancy payments, and (iii) costs related to investments, and is subject to specific conditions.

It is very difficult to assess the amount of a possible goodwill indemnity, as the law does not determine any calculation method. The law simply refers to a “fair” indemnity. Hence, the different Belgian courts apply different calculation methods (based on the net profit, gross profit, semi-gross profit, a percentage of the turnover).

A supplier may also have to compensate the distributor when it has not respected the contractually agreed, or reasonable notice period.

d) Franchise model

No automatic indemnity, but:

- Compensation possible in case of abuse (e.g., insufficient notice, abuse of dominance).
- Notice period may be required under good faith or contract terms.
- Courts are reluctant to extend agency-style indemnity to franchisees.

e) Licence model

No statutory goodwill compensation.

- Termination governed purely by the licence agreement and general contract law.
- Good faith obligations may imply notice, but no goodwill rule exists.

f) Online distribution models

No specific termination compensation, but:

- Where applicable, platform operators must comply with P2B Regulation (e.g. 30 days prior notice for delisting).
- Sudden termination can be challenged under abuse of economic dependence (Article IV.2/1 of the Belgian Code of Economic Law).

g) New distribution models

Same as above – no statutory rule. Compensation may arise based on:

- Contract.
- Unlawful termination.
- Abuse of economic dependence (especially relevant in digital ecosystems).

3. Are there specific points of attention not covered yet in paragraphs (2) and (3), or deviating hereof under your law system?

- **Abuse of Economic Dependence (Article IV.2/1 of the Belgian Code of Economic Law):** A newer legal tool (since 2020) allowing businesses to sue suppliers who exploit their dominant commercial position – even if not dominant in the market.
- **Competition rules on vertical agreements:** Exclusive, selective, and online distribution clauses must comply with the VBER.
- **Language requirements:** In some Belgian regions, the language of the agreement may need to comply with local rules (e.g., Dutch in Flanders for employment-related documents).
- **B2B unfair terms regulation:** Since 2020, Belgium restricts abusive B2B clauses (e.g., abrupt termination, unilateral change rights, unfair liability exclusions).

4. Are there any specific trends in your jurisdiction with respect to those distribution models?

- Increased litigation on “abuse of economic dependence”, especially involving tech platforms, exclusive suppliers, and dominant franchise networks.
- Tighter judicial scrutiny of franchise agreements, especially regarding pre-contractual disclosure and

imbalance of power.

- Growth of hybrid models: Companies increasingly combine direct sales, marketplaces, and intermediaries, creating legal overlap.
- Platform regulation is evolving, with Digital Markets Act and Digital Services Act starting to apply in Belgium.
- Push toward ESG and ethical clauses in distribution contracts, especially in franchising and selective distribution.

II. FRANCE

1. Are the several distribution models codified in local laws and if so, what laws apply?

a) Commercial agency model

- The commercial agency model is governed by Articles L.134-1 to L.134-17 and R.134-1 and following of the French Commercial Code, which transpose the Commercial Agents Directive into national law.
- For a long time, the French Supreme Court considered that the qualification of commercial agent presupposed the power to modify fixed rates and conditions of sale (Cass.com, January 15, 2008 06-14.698).
- However, a decision by the European Court of Justice on June 4, 2020 (C-828/18 Trendsetteuse SARL v. DCA SARL) held that to qualify as a commercial agent, a person need not necessarily have the power to alter the prices of the goods he sells on behalf of the principal.
- Since then, the French Supreme Court has reversed its position, aligning itself with European case law (Cass.com, December 2, 2020, 18-20.231).

b) Commissionaire or consignment model

- Commission is a contract by which one person, the commissionaire, acts in his own name but on behalf of another person, the principal. It is therefore distinct from the commercial agency.
- This contract is governed by several provisions:
 - Articles L.132-1 to L.132-9 of the French Commercial Code.
 - Articles 1984 to 2010 of the French Civil Code concerning the rights and duties of commissionaires.
- Consignment may be defined as the operation whereby one person delivers goods to another for sale and returns unsold goods. Consignment can take different legal forms: “deposit-sale” contract (combination of a deposit contract and a mandate contract. In this case, the goods are handed over to a distributor charged with selling them in the name and on behalf of the depositor) or “deposit-resale” contract (this can also be a sale concluded under the suspensive condition of a sub-purchaser).

- These contracts are governed by different rules of French Civil Code depending on the nature of contract:
 - Articles 1582 to 1701-1 (sale contract).
 - Articles 1915 to 1963 (deposit contract).
 - Articles 1984 to 2010 (mandate contract).

c) Distribution (or dealership / reseller) model

- Distribution agreements are intended to optimize the commercialization of products or services in the interests of both the supplier and the retailer. In France, there are several forms of distribution, depending on the wishes of the parties and the strategy adopted and notably – for example, selective or exclusive distribution.
- Selective distribution: The supplier chooses distributors according to predefined criteria (quality of service, image, technical capacity, etc.). Only authorised resellers can sell products.
- Exclusive distribution: The supplier grants a very limited number of distributors (often only one per defined geographical area) the right to sell its products. Article L.442-2 of French Commercial Code punishes violations of the ban on off-network resale by imposing liability. It applies to all exclusive or selective distribution agreements.
- The French Commercial Code stipulates (Article L.330-3) that any person who makes a trade name, brand, or sign available to another person, requiring that person to commit to exclusivity or quasi-exclusivity in the exercise of their activity, is required to provide the other party with a contractual information document containing truthful information that allows them to make an informed commitment.
- The content of this document is determined by decree (Article R330-1).

d) Franchise model

- The franchise model is the contract by which a franchisor grants a franchisee the right to use its reputation, brand, and the know-how of a business in exchange for financial compensation. In terms of distribution, this involves the franchisee selling products under the franchisor’s brand.
- Franchise contracts are not explicitly codified by French law, but they are governed by ordinary contract law and by the rules specific to each of the contracts that constitute it, which are juxtaposed and

coordinated within the franchise relationship (Article L.330-1 and L.330-2 of the French Commercial Code when the franchise is associated with a purchasing exclusivity and Article L.330-3 of the French Commercial Code which stipulates that any person who makes a trade name, brand, or sign available to another person, requiring that person to commit to exclusivity or quasi-exclusivity in the exercise of their activity, is required to provide the other party with a contractual information document containing truthful information that allows them to make an informed commitment. The content of this document is determined by decree (Article R330-1).

e) Licence model

- Licence model is a contract whereby the holder of an intellectual property right (trademarks, patents, copyrights, or know-how, etc.) (the licensor) authorises a third party (the licensee) to use that right (manufacturing, marketing, use) under specified conditions, without transferring ownership.
- Licence agreements are governed by the French Intellectual Property Code.

f) Online distribution models

- Only Article 14 of law no. 2004-575 defines e-commerce as the economic activity whereby a person offers or ensures the supply of goods or services at a distance and by electronic means.
- But there are no specific regulations applicable to Internet distribution models between professionals. However, these models are subject to supervision by the courts and by the French supervisory authorities, such as the French Competition Authority.
- Indeed, on 5 June 2020, the French Competition Authority (“Autorité de la concurrence”) published a study on competition and online commerce to assess the competitive pressure exerted by online activities on offline activities, as well as the behaviour of online operators. It found that online distribution intensifies competition, but that its extent varies from one sector to another, making it necessary to adapt the analysis grid, particularly when assessing market shares.
- A number of illicit practices have been identified and have given rise to important decisions in online distribution concerning French Brands, including clauses prohibiting the use of marketplaces or the obligation to have an online sales outlet (Pierre Fabre, CJEU, 13 October 2011 C-439/09 or Decision 23-D-12 of 11 December 2023 ADLC Mariages Frères), price parity clauses, clauses prohibiting the use of price comparators etc.

g) New distribution models

- There are no specific regulations for new distribution models such as subscription commerce and D2C commerce.
- Concerning D2C model, even if it is not new, it is now diversifying with new forms such as click & collect (i.e., a service that allows customers to order online and pick up their purchases in-store). This method is not governed by specific regulations and remains subject to the general rules of D2C from the French Consumer Code.
- Provisions applicable to all models referred to above.

2. Is generally a goodwill or compensation payable upon termination by the supplier?

a) Commercial agency model

- The Commercial Agents Directive gave member states two options for assessing damages (Article 17 of the Commercial Agents Directive).
- In French law, in the event of termination of the relationship by the supplier, the commercial agent is entitled to compensation for the loss suffered, provided that he notifies the principal of his intention to assert this right within one year of the termination of the commercial relationship (Article L. 134-12 of the French Commercial Code).
- The termination indemnity is intended to compensate the agent for the loss of future revenue from the clientele (Article L.134-12 of the French Commercial Code).
- In practice, the amount of the indemnity is generally set at two years' commissions based on the last three years. However, the determination of this amount is left to the sovereign appreciation of the trial judges and cannot be considered automatic.

b) Commissionaire or consignment model

In principle, unless otherwise stipulated in the contract, the commissionaire or the consignee is not entitled to compensation for the loss suffered.

- The French courts carry out a precise analysis of the legal nature of the contract in order to determine whether the agent (or possibly the distributor in a deposit-sale contract) should be classified as a commercial agent which determines whether or not the compensatory indemnity provided for in Article L.134-12 of the French Commercial Code applies.
- In addition, the Commission d'examen des pratiques

commerciales (“CEPC”) has issued an opinion in which it questions the legitimacy of including a compensatory indemnity clause for the benefit of the commissionaire. It points out that the validity of such a clause must be assessed in the light of Article L.442-6, I, 2° (now L.442-1, I, 2°) of the French Commercial Code relating to significant imbalances, in particular when the inclusion of this clause is not justified by the nature of the agreement, by the capacity of the agent or by a legislative intention to grant a more protective status to the commissionaire.

In addition, this relationship is governed by the general provisions relating to the abrupt termination of established commercial relations: in the event of termination without sufficient notice, the injured party may obtain compensation for the loss suffered (Article L.442-1, II of the French Commercial Code). It is reasonable to assume that this principle is unlikely to apply to deposit-sales agreements.

c) Distribution model / Franchise model / Licence model / Online distribution models / New distribution models

French law does not provide for a statutory goodwill indemnity upon termination of such contracts. However, they are governed by the general provisions concerning the abrupt termination of established commercial relationships: in the event of termination without sufficient notice, the injured party may obtain compensation for the loss suffered (Article L.442-1, II of the French Commercial Code).

3. Are there specific points of attention not covered yet in paragraphs (2) and (3), or deviating hereof under your law system?

In addition to the specific provisions mentioned above, those contracts are also governed by:

- Ordinary contract law (French Civil Code).
- The rules relating to restrictive competition practices (Articles L.442-1 and following of the French Commercial Code) which punishes, for example:
 - Obtaining or attempting to obtain from the counterparty an advantage without any corresponding consideration, or that is manifestly disproportionate to the value of the consideration provided.
 - Submitting or attempting to submit the other party to obligations that create a significant imbalance in the rights and obligations of the parties.
 - Imposing logistical penalties that do not comply with Article L. 441-17.
 - For FMCG (Fast Moving Consumer Good) applying to the other party, or obtaining from it, prices, payment terms, conditions of sale, or terms of sale or purchase that are discriminatory and not justified by actual consideration provided for in the agreement thereby creating a competitive disadvantage or advantage for that partner.
 - Abruptly terminating, even partially, an established commercial relationship, in the absence of written notice that takes into account, in particular, the duration of the commercial relationship.
- Certain regulations which require suppliers and resellers to sign an annual written agreement in general by 1st March at the latest. Failure to comply with these obligations may result in administrative fines. In 2024, the DGCCRF (Direction générale de la concurrence, consommation et repression des fraudes) imposed fines of €38 million and €10 million on two international buying groups for non-compliance with the deadline. In addition, under French law, specific regulations within the Commercial Code, require suppliers and resellers of certain food products and pet food to give a certain level of transparency in their commercial relations, and strictly regulate the negotiation and formalization of their commercial relationships. For example, general terms and conditions of sale for food products and pet food must provide information linked to the cost of agricultural raw materials.
- Other rules referred to in the Commercial Code, such as the prohibition on resale below the purchase price, as well as other rules that specifically target the pricing of food products.
- Those relating to anti-competitive practices (Articles L.420-1 and following of the French Commercial Code). In addition, the VBER also applies.

4. Are there any specific trends in your jurisdiction with respect to those distribution models?

- In France, as mentioned above, French regulations on unfair commercial practices (referred to in France as “restrictive competition practices”) are particularly well developed and largely seek to protect the weaker party when there is a significant imbalance of power. Particularly in relations between suppliers and large retailers, but this can apply to other models as well, public authorities and judges are very inclined to punish those who abuse their power.
- Although the UTP Directive has harmonized some of these practices and incorporated them into the legal systems of EU Member States, the list of prohibited practices (the so-called “blacklist”) is more narrowly focused than French law. Its scope is limited to the agri-food sector and subject to turnover thresholds.
- The European Commission is currently evaluating the UTP Directive. The Commission will present its assessment in November 2025 and may propose a revision of the directive (potentially in the first quarter of 2026).

III. GERMANY



1. Are the several distribution models codified in local laws and if so, what laws apply?

a) Commercial agency model

- The legal provisions governing commercial agents in Germany are set out in Sections 84 to 92c of the German Commercial Code. These sections contain numerous mandatory rules that cannot be waived or altered by contractual agreement and also implement the requirements under the Commercial Agents Directive.
- Where the German Commercial Code does not contain specific provisions for commercial agents, the general rules of service and agency contracts under the German Civil Code – particularly Sections 611 et seq. and Section 675 – apply supplementarily.
- The German definition of a commercial agent is broader than that of the EU Commercial Agents Directive. It does not only include activities of the agent for the principal regarding the sale or purchase of goods, but also activities regarding the provision of services for customers.

b) Commissionaire or consignment model

- The commission contract is regulated in Sections 383 et seq. of the German Commercial Code.
- German case law distinguishes between two types of commissionaires: the “regular” commissionaire (“**Kommissionär**”) and a special type sharing characteristics with a commercial agent, known as the commission agent (“**Kommissionsagent**”). Both are often simply referred to as commission agents, which can be confusing, especially as the legal distinction is not even reflected in the wording of the German law. According to the legislative concept, the **Kommissionär** is only engaged on a case-by-case basis. In contrast, the **Kommissionsagent** is, like a commercial agent, “permanently entrusted” with such activities.
- A consignment contract is a sui generis contract (a contract of its own kind) that is not explicitly regulated under German law and combines elements of a sales contract and a storage contract. Its legal classification is therefore based on general principles of civil law and the provisions of contract law under the German Civil Code.

- In Germany, a specific distribution model exists that resembles a consignment arrangement, commonly referred to as a Consignment Stock or Warehouse Agreement (*Konsignationslagervertrag*). This model is primarily shaped by logistical and tax considerations and does not involve intermediaries such as sales agents or distributors. Instead, the agreement is concluded directly between the supplier and the customer. A consignment warehouse is a storage facility located at the customer’s premises, stocked by the supplier. The customer retrieves goods as needed, while ownership remains with the supplier until the goods are withdrawn. Under certain conditions, this model benefits from simplified VAT treatment – particularly in cross-border transactions – pursuant to Section 6b of the German VAT Act. This allows suppliers to avoid VAT registration in the destination country. Such arrangements are especially prevalent in industries such as automotive manufacturing, where just-in-time delivery is essential. Legally, it is classified as a storage agreement with elements of sales law.

c) Distribution (or dealership / reseller) model

- German law does not provide specific statutory provisions governing distribution models outside of commercial agency. As a result, such arrangements are primarily subject to the general rules of civil law, particularly those found in the German Civil Code and the German Commercial Code, with sales law playing a central role.

d) Franchise model

- Franchise law in Germany, as in many jurisdictions, is not governed by specific statutory provisions. Therefore, German franchise law consists of a complex framework of general civil law, case law, as well as specific provisions of competition and antitrust regulations.
- The German Franchise Association (Deutscher Franchiseverband e.V.) has adopted a Code of Ethics. While such codes do not carry the force of law and bind only the members of the respective organisations (if at all), they are frequently used as guidelines for proper conduct between the parties.

e) Licence model

- There is no statutory regulation or legal definition of a licence agreement under German law. Instead, it is considered a contract *sui generis*. Depending on the specific agreement, the licence agreement may contain elements of various legally standardized contract types, such as the lease agreement.
- Specific statutory provisions allowing for licensing can rather be found in intellectual property law than in distribution laws, for instance in the German Patent Act (Section 15), the German Trademark Act (Section 30), and the German Copyright Act (Section 31).

f) Online and new distribution models

- German law does not provide for specific chapters for the online or new distribution models explained above. Rather, various legal requirements must be observed in their respective areas of application and depending on the structure of the distribution model.
- Without claiming to be exhaustive, the key legal provisions include:
 - Sections 305 et seq. of the German Civil Code governing the use of standard terms and conditions.
 - Sections 312 et seq. of the German Civil Code include, *inter alia*, information obligations in e-commerce, partially also applying in business-to-business transactions.
 - German Unfair Competition Act requiring, *inter alia*, clear labelling of commercial content. Particularly, social influencers must disclose when posts are promotional.

2. Is generally a goodwill or compensation payable upon termination by the supplier?

a) Commercial agency model

- The statutory right to claim a compensation upon termination is included in Section 89b of the German Commercial Code. The law is implementing the requirements of the Commercial Agents Directive. Thus, in short, compensation can be claimed if the commercial agent has brought new customers or significantly expanded business with existing ones and the supplier continues to benefit from these relationships after termination. The amount of the compensation is capped at one year's average commission over the last five years of the contractual

relationship or, if the contract period is shorter, the average of this period.

- The statutory compensation claim of a commercial agent is indispensable and cannot be excluded or circumvented in advance. Any clause attempting to waive or limit this right before termination is invalid. The claim must be asserted within one year following the termination of the contractual relationship.

b) Commissionaire or consignment model

- There is no statutory right to a compensation for consignees, commissionaires or commission agents.
- However, since many years German case law extends the right to a claim a compensation – as well as several other agency principles – also to distributor relationships other than commercial agencies by applying Section 89b of the German Commercial Code by analogy under certain conditions. These conditions at least include that (i) the distributor is highly integrated in the principal's sales organisation and has a position similar to a commercial agent, and (ii) the principal benefits from the customer base after the termination.
- Consequently, it depends on the type of the distributorship, the contractual arrangements made and the practical handling regarding the integration of the distributor in the principal's sales organisation whether or not there is room for a compensation claim. This is always a case-by-case decision.
- This case law also applies to consignees, commissionaires and commission agents. They therefore may be entitled to claim a reasonable compensation provided the said requirements are met in the respective case. For instance, in the matter decided in case no. I ZR 229/15 (dated 21 July 2016), the BGH has ruled that a commercial agent, who is permanently entrusted with commission business by the principal, can claim a compensation.
- In consistence with established case law regarding authorised dealers (BGH, case no. VII ZR 102/15), it is also likely that there is no room for deviating agreements to the detriment of the distributor. Therefore, a contractual clause that would exclude a claim for compensation in advance would be invalid.

c) Distribution (or dealership / reseller) model

- There is no statutory right to a compensation claim for distributors or dealers.
- However, as with commission agents etc., German case law allows to apply Section 89b of the German Commercial Code *mutatis mutandis* to distributors and dealers if they are “more than a pure reseller”

(see above Chapter D III. 2. b)). While the BGH often mentioned that the distributor/dealer must be contractually or factually obliged to transfer customer data as a specific requirement for the analogy (e.g. in BGH, case no. VIII ZR 283/96), it appears that there are tendencies that a mere “goodwill” or “profit expectation” might also be sufficient (cf. the ruling of the Regional Court of Nuremberg-Fürth, case no. 2 HK O 10103/12).

compensation must be paid if the general conditions for such interpretation established by the BGH apply. This largely depends on how the distribution model qualifies and the arrangements of the parties.

3. Are there specific points of attention not covered yet in paragraphs (2) and (3), or deviating hereof under your law system?

d) Franchise model

- There is no statutory right to a compensation claim for franchisees.
- German case law does not exclude explicitly that a franchisee is entitled to claim a compensation. However, the BGH already ruled that the analogy prerequisites were not met in one specific case to be decided (BGH, case no. VII ZR 109/13). With view to the arguments made therein, it seems unlikely and rather theoretical that in a franchise system with anonymous walk-in customers (e.g. a fast-food chain) Section 89b of the German Commercial Code can be applied by analogy.

- Under German law, distribution models other than commercial agency – such as authorised dealers or franchisors – generally enjoy less statutory protection. The legal framework for these arrangements is comparatively sparse, leaving much to contractual freedom and case law. However, parties should remain vigilant: courts may apply commercial agency law *mutatis mutandis*, particularly where the distributor performs functions similar to those of a commercial agent. This can have significant implications, including potential claims for post-contractual compensation.
- Germany maintains a notably rigorous regime governing standard terms and conditions, even in business-to-business (B2B) contexts compared to other countries. While many jurisdictions differentiate clearly between consumer and commercial contracts, German courts often apply consumer protection principles to B2B agreements via the general fairness test under Section 307 of the German Civil Code. As a result, numerous clauses commonly found in international contracts may be deemed invalid under German law. For example, standard terms cannot exclude or limit liability for (i) intentional or grossly negligent conduct or (ii) personal injury or harm to life or health. These restrictions apply regardless of whether the contract is between businesses, making careful drafting and legal review essential.
- In contract law, particularly in business-to-business (B2B) transactions, it's common for both parties to exchange their own standard terms and conditions (T&Cs). This often leads to a “battle of the forms,” where each side attempts to impose its own contractual terms. In some jurisdictions, the “last shot rule” applies – meaning the terms last sent before acceptance or performance prevail. German law, however, follows the “knock-out rule”. Under this approach, conflicting clauses in both of the respective T&Cs are deemed null and void respectively. The contract is still considered valid, but the gaps left by the cancelled provisions are filled by the default rules of statutory law.

e) Licence model

- There is no statutory right to a compensation claim for licensees.
- However, German case law has addressed the issue of compensation in related contractual arrangements, particularly in the context of trademark licence agreements. The BGH held that Section 89b of the German Commercial Code, which governs compensation claims for commercial agents, may be applied *mutatis mutandis* to trademark licence agreements. However, the BGH also clarified that these conditions are generally not met if the trademark owner and licensor is not actively engaged in the licensed territory for the goods distributed by the licensee. In such cases, the licensee typically operates independently, and the relationship lacks the structural and economic characteristics of a commercial agency (BGH, case No. VIII ZR 352/04).

f) Online distribution models and new distribution models

- There are no legal provisions on this matter and, as far as can be seen, there is no case law yet that has ruled on the *mutatis mutandis* application of Section 89b of the German Commercial Code in these distribution models. However, it can be assumed that

4. Are there any specific trends in your jurisdiction with respect to those distribution models?

- As previously outlined, the mutatis mutandis application of Section 89b of the German Commercial Code, which governs compensation claims for commercial agents, has been extended by courts to other types of distribution systems. This remains a dynamic issue and continues to evolve through case law that should be monitored closely.
- Another central trend is the growing importance of competition law in the structuring of distribution agreements. Vertical arrangements – such as those between manufacturers and retailers – are increasingly scrutinized, with particular attention paid to resale price maintenance, exclusivity clauses, and selective distribution systems. Companies should always carefully assess these aspects to avoid antitrust risks.
- In the franchising sector, there are indications in recent case law that courts may be adopting a more nuanced approach to the franchisor's liability for the conduct of franchisees. For example, in a decision by the Regional Court of Augsburg (case no. 81 O 1161/23), a franchisor was held liable for misleading advertising by a franchisee, which could have significant implications for contract design and compliance frameworks.
- From an economic perspective, omnichannel strategies are gaining traction and becoming more professionalized. Leading German drugstore chains such as dm and Rossmann exemplify this trend by integrating physical stores, online platforms, and mobile apps to create a seamless and personalized customer experience. At the same time, the regulatory landscape for digital distribution is becoming increasingly complex. E-commerce models must now comply with a range of new EU regulations, including the European Accessibility Act and the Digital Services Act. These frameworks require not only technical adjustments but also revisions to contractual structures, particularly regarding information duties.

IV. ITALY

1. Are the several distribution models codified in local laws and if so, what laws apply?

a) Commercial agency model

- In Italy the main rules on commercial agency contracts are provided in Articles 1742-1753 of the Italian Civil Code. Among them, a certain number of provisions are mandatory, but it is possible in several cases to derogate them in favour of the agent.
- In the Italian system there is also another source of applicable rules: the collective agreements (*Accordi Economici Collettivi, AEC*) signed by the organisations of principals and agents.
- Also, general rules on contracts are applicable (Articles 1321 et seq. of the Italian Civil Code).
- Near the commercial agent, there is the figure of “business agent”: the most important difference is the absence of stability of the relationship between the business agent and the principal.

b) Commissionaire or consignment model

- In Italy, under this business model two types of relationships can be envisaged: the first one is regulated by the Italian Civil Code (Article 1556 et seq.), which provides that one party (“**tradens**”) delivers one or more goods to the other (“**accipiens**”), while the latter undertakes to pay the price or return them (in case they remain unsold) within the agreed term. Generally, the accipiens is a distributor, which has as a business to sell the goods received by the tradens; if some of those goods remain unsold, it can return them to the tradens. The most important characteristic of this model is that the accipiens does not assume the risk connected with the failure to sell.
- According to the experience, there is another type of consignment contract, in which it is provided that the owner (manufacturer or not) of the products delivers its products to another entity (typically in a different jurisdiction), which is responsible for the deposit and the delivery to the clients of the owner of the products. Such entity does not sell any of the products, it is only responsible for logistic management of them on behalf of the owner of the products (typically with seat in the jurisdiction where the products will be delivered). In other words, the sale is between the owner and its clients.

c) Distribution (or dealership / reseller) model

- In Italy there is no special law concerning distribution contracts, the general rules on contracts (Articles 1321 et seq. of the Italian Civil Code) and the specific rules concerning particular aspects included in the contract are applied. With this contract a business model is indicated, in which a party (the manufacturer of the products) sells its products to several specific parties (the distributors), which must sell them to the public (B2B or B2C depending on the type of products).
- Generally, in this contract there are some rules concerning the use of the trademark of the manufacturer, the exclusivity in favour of the distributor, in such a case usually with minimum quantities of products to be purchased by the distributor each year.

d) Franchise model

- In Italy, this business model is regulated by a special law, that is Law No. 129/2004. With this contract, the franchisor (which has a certain business started) gives the franchisee a package of knowledge, including the right to use the trademark, in order to enter in its business, without the risks connected with the start of a new activity.
- The most important aspects of this law are: (i) the provision of the necessary content of the contract, (ii) the provision of the mandatory written form for the contract, (iii) the regulation of the intellectual property aspects, in particular the know-how.
- In the cases before the Courts, an important element of this kind of business model is discussed: how the know-how given from the franchisor to the franchisee must be specifically identified.

e) Licence model

- With this contract, the owner of a trademark (or other intellectual property right) gives the right to another party (with an exclusive or non-exclusive right) to use its trademark in order to manufacture and sell certain selected products, against the payment of a sum of money (that can be fix, as a lump sum, or can be a percentage of the turnover of the licensee, as a royalty).
- In Italy, there is no special law for this kind of relationship, to which are applicable (i) the rules contained in the Italian Industrial Property Code,

concerning the use of the trademark, and (ii) the general rules of contracts contained in Italian Civil Code.

f) Online distribution models

- In Italy there is a special law concerning the e-commerce (a business model in which you can have also distribution), that is the Legislative Decree No. 70/2003 (which implemented the E-commerce Directive). Also, in the Italian Consumer Code (Legislative Decree No. 206/2005) there are some specific rules concerning the e-commerce.
- Such rules apply in addition to those mentioned for the offline distribution model.

g) New distribution models

- The Italian Court of Rome has recently defined a dispute in which was involved an influencer, who signed a contract with a company for “online sales of dietary supplements”. This contract has been qualified as an agency contract, based on the following points:
 - Some factual elements considered, in particular: (i) the commission account and the monthly invoice, (ii) the duration of the relationship, (iii) the sales target and the rewards.
 - Some of the contractual clauses were recognized as typical clauses, in particular: (i) the influencer undertakes to promote the company’s products on its web pages, (ii) the right of the influencer to receive, for each directly procured and successful order, a percentage of 10% as a commission, (iii) there wasn’t a term for the agreement, with the specification that each party may terminate it by giving 15 days’ notice to the other party.

2. Is generally a goodwill or compensation payable upon termination by the supplier?

a) Commercial agency model

- In Italy, this is a sensitive topic and there are two different regulations that apply to the same situation. The rules of the Italian Civil Code (Article 1751) and the rules of the Collective Agreements. Both of them fix the requirements that must be in place in order to recognize the indemnity to the agent.
- While the Italian Civil Code provides only one type of indemnity (the amount of which cannot exceed a

sum equal to a yearly indemnity calculated on average of the commissions earned in the last five years), the Collective Agreement provides that at the end of an agency contract, the agent has the right to receive: (i) *Fondo Indennità Risoluzione Rapporto* (FIRR) - paid every year during the contract by the principal to Enasarco (this is always due), (ii) *indennità suppletiva* - paid directly by the principal to the agent (almost always due), (iii) a third kind of indemnity - called *indennità meritocratica* (that is due only if some specific requirements are met).

b) Commissionaire or consignment model, distribution (or dealership / reseller) model, franchise model, licence model, online distribution models

- According to the applicable law, there is no specific statutory provision concerning a goodwill indemnity or compensation payable upon termination by the principal, consignor, supplier, franchisor, or licensor in the following models:
 - Commissionaire or consignment model.
 - Distribution (dealership/reseller) model.
 - Franchise model.
 - Licence model.
 - Online distribution models.
- However, compensation may be claimed as a recovery of damages if the termination causes unlawful harm to the respective counterparty (e.g. consignee, distributor, franchisee, licensee). Such claims would be based on general principles of civil liability under Italian law.

c) New distribution models

- For influencer contracts, if certain requirements are met (first of all the stability of the relationship), could be applicable the same rules concerning the commercial agency business model.

3. Are there specific points of attention not covered yet in paragraphs (2) and (3), or deviating hereof under your law system?

N/A.

4. Are there any specific trends in your jurisdiction with respect to those distribution models?

N/A.

V. THE NETHERLANDS



1. Are the several distribution models codified in local laws and if so, what laws apply?

a) Commercial agency model

- Commercial agency agreements are agreements (or relationships) whereby the principal charges the commercial agent, which the latter undertakes, for a remuneration, to act as an intermediary in the realisation of contracts and possibly to conclude such contracts in the name and on account of the principal without being subordinate to the latter.
- The relationship between the principal and its commercial agent is governed by Section 4 of book 7 of the Dutch Civil Code (Articles 7:428 up to and including 7:445 and Articles 7:401, 402, 403, and 426(2)).
- For so-called “real agents”, who do only run minimal (financial) risks, the VBER does not apply.

b) Commissionaire or consignment model

- This type of mandate describes a situation where the agent acts legally in their own name but the consequences (costs, risks, benefits) are borne by the principal (the person who gave the mandate). This is governed by Article 7:414 of the Dutch Civil Code.
- A commissionaire agreement is (almost) entirely governed by default (non-mandatory) law:
 - The principal may terminate the agreement at any time; this is mandatory law (Article 7:408(1) in conjunction with 7:422(2) of the Dutch Civil Code).
 - Sometimes a (short) notice period must be observed.
 - No statutory right to compensation upon termination.
- In principle no analogous application of commercial agency laws. Also, no analogous application of case law on the termination of distribution agreements.
- Furthermore, when the commissionaire is a “real agent” under the VBER and does not run material financial risks (only allowed to run minimal risks), the rules applicable to vertical agreements do not apply.

c) Distribution (or dealership / reseller) model

- Distribution agreements are agreements (or relationships) whereby the supplier provides its distributors the right (and also obliges them) to resell and distribute the relevant products or services in its own name and on its own account. Selective distribution agreements may have similarities to franchise. Recently (in March 2025) a Dutch court of appeal rejected the claim of car dealers that they fall under the scope of the Franchise Act.
- Distribution agreements are, from a civil law point of view, not specifically regulated under Dutch laws. Instead, the general laws of contract apply as well as Dutch court decisions. Book 6 of the Dutch Civil Code prescribes the formation of contracts in general. These rules must be read in conjunction with the general rules regarding juridical acts, as laid down in book 3 of the Dutch Civil Code. Furthermore, the principle of reasonableness and fairness plays an important role in Dutch contract law. Relevant case law in this respect is often based on Article 6:248 of the Dutch Civil Code (the principle of reasonableness and fairness). A lot of important principles that apply to franchise agreements and franchise relationships, have been decided upon in case law.
- Besides the civil law aspects, European directives and regulations in the field of vertical agreements are applicable and important. With regard to distribution agreements, the VBER applies as well as the guidelines thereto. The VBER provides the relevant framework for the competition law assessment of all franchise agreements with an effect on trade between the EU member states (see Chapter C for more information).

d) Franchise model

- Per 1 January 2021, the new Dutch Franchise Act, “de Wet Franchise” (the “Franchise Act”) came into force. The Franchise Act has been processed in the Dutch Civil Code. In the Franchise Act, a franchise agreement is defined as follows: “*an agreement pursuant to which the franchisor grants a franchisee, in return for a fee, the right and the obligation to operate a franchise formula, in the manner indicated by the franchisor, for the production or sale of goods or the provision of services.*”⁵

⁵ Article 7:911(1) of the Dutch Civil Code.

A franchise formula is defined as: “an operational, commercial, and organisational formula for the production or sale of goods or the provision of services that is decisive for a uniform identity and image of the franchise enterprises within the chain where this formula is applied, and that in any case comprises: a trademark, model or trade name, house style or design; and know-how: i.e. an entirety of practical information not protected by intellectual property rights, derived from franchisor’s experience and from the investigations it has carried out, which information is secret, substantial, and identified”.⁶

- Besides the Franchise Act, general rules of contract law and the VBER are applicable (see Chapter D V. 1. c)).
- The members of the Dutch Franchise Association (Nederlandse Franchise Vereniging, NfV) voluntarily commit themselves to the European Code of Ethics for Franchising (the Franchise Code of Ethics). In case law, the Franchise Code of Ethics has been applied in a different way by different courts, where some courts apply the rules laid down in the Franchise Code of Ethics and others basically ignore those rules.

e) Licence model

- Licence agreements are agreements whereby the licensor grants the licensee the right (and may also oblige it) to exploit the relevant trademark or software for certain products or services in a certain territory. The licence can be granted on a pending application or a registered right, and can be limited in time or perpetual, exclusive or not exclusive, limited in scope (for certain use only), for free or for consideration. A trademark licensing agreement can be (very) similar to a franchise agreement. Therefore, there may be a risk the Franchise Act applies.
- Licence agreements are, from a civil law point of view, not specifically regulated under Dutch laws. Besides the Franchise Act, general rules of contract law and the VBER are applicable (see Chapter D V. 1. c)).

f) Online distribution models

- With respect to online distribution models, it really depends how the model is being structured whether under Dutch law it would qualify as commercial agency, distribution, franchise or commissionaire etc. It can also be a mixed agreement with elements

from different distribution models. When it is a mixed agreement, generally the laws apply with the strongest elements.

g) New distribution models

- The same applies as for online distribution models (see Chapter D V. 1. f)).

2. Is generally a goodwill or compensation payable upon termination by the supplier?

a) Commercial agency model

- Under Dutch law, an agent is entitled to a client compensation (also well known as: “goodwill compensation”) upon the end of the agency agreement if certain requirements have been met. These requirements are:
 - the agent has brought the principal new customers or an increasing number of agreements with existing clients,
 - the agreements with such customers still provide the principal a substantial advantage, and
 - such payment is reasonable given the circumstances of the case (Article 7:442 1 of the Dutch Civil Code).
- The amount of this compensation cannot, unless otherwise agreed, exceed the equivalent of one year’s compensation, based on the average earnings over the previous five years, or, if less than five years, over the actual duration of the contractual relationship (Article 7:442(2) of the Dutch Civil Code).
- According to Article 7:442(4) of the Dutch Civil Code no goodwill compensation is due if:
 - The agreement was terminated by the principal and the reasons for termination can be attributed to the agent.
 - The agreement was terminated by the agent, unless the agent terminated for reasons that can be attributed to the principal.
 - If the termination is justified by age or illness of the agent, with a view to which the agent cannot reasonably be expected to continue his work as an agent.
- The right to receive goodwill compensation expires if the commercial agent fails to invoke the rule within one year after termination of the agency agreement (Article 7:442(3) of the Dutch Civil Code).

⁶ Article 7:911(2) of the Dutch Civil Code.

b) Commissionaire or consignment model

- When the commissionaire agreement is terminated in accordance with the contractual provisions, or when a reasonable notice period has been observed, there is no goodwill compensation payable.

c) Distribution (or dealership / reseller) model

- In the event of termination of a distribution relationship, the supplier may be required to pay an indemnity for investments or costs made by the distributor, in case these investments cannot be earned back due to the termination of the contract and the supplier was aware – or should have been aware – of the investments made. A supplier may also have to compensate the distributor when it has not respected the contractually agreed, or reasonable notice period.
- So far, a higher court in the Netherlands has not granted a goodwill compensation to the distributor upon the termination of a distribution agreement.

d) Franchise model

- A contractual arrangement on termination (like a notice period or a limitation of damages payable) may be held unacceptable according to the reasonableness and fairness and could therefore be set aside.
- According to the Franchise Act, the franchise agreement must include a clause regarding the determination and allocation of goodwill if the franchise agreement is terminated. Goodwill can be determined by adding a specific calculation method or, if this is not feasible, decide on how the determination of any goodwill and the allocation thereof will be carried out in the future. For example, by appointing an expert who can make a calculation at the end of the franchise agreement. Goodwill will only be reimbursed to franchisee if franchisor takes over the franchise enterprise from franchisee in order to continue this enterprise independently or to transfer it to a third party with whom/which franchisor concludes a franchise agreement.
- Furthermore, a franchisee may also be entitled to payment of a compensation for costs and investments made by the franchisee, which costs and investments cannot be earned back as a result of the unlawful termination.

e) Licence model

- Similar to what applies in the event of a distribution model (see Chapter D V. 2. c)).

f) Online distribution models

- This really depends how the online distribution model qualifies and what laws apply.

g) New distribution models

- The same applies as for online distribution models (see Chapter D V. 2. c)).

3. Are there specific points of attention not covered yet in paragraphs (2) and (3), or deviating hereof under your law system?

- Under Dutch civil law, a court qualifies a commercial agreement primarily by interpreting its content and assessing the parties' intentions, based on several key legal principles and doctrines. The process is centred on the Haviltex standard, developed in Dutch case law, and considers not only the wording of the agreement but also its context. This includes looking at context, conduct before and after conclusion, negotiation history, position of the parties and commercial practices. After interpretation, the court qualifies the agreement under Dutch law. This means determining what type of contract it is legally, regardless of what the parties called it.
- Dutch law places great emphasis on the principle of reasonableness and fairness in both the performance and interpretation of contracts. Even if a clause is clear, it may be set aside if its enforcement would be unreasonable or unfair in the circumstances.

4. Are there any specific trends in your jurisdiction with respect to those distribution models?

- The Dutch Franchise Act is relatively recent (effective per the 1st of January 2021) and is rather strict and restrictive for a brand owner / franchisor. As a result hereof, sometimes suppliers chose explicitly to use a different distribution model than franchise, for example commercial agency and commissionaire.

VI. PORTUGAL



1. Are the several distribution models codified in local laws and if so, what laws apply?

a) Commercial agency model

- Commercial agency agreements are arrangements whereby the principal entrusts the commercial agent, who undertakes to promote, on behalf and interest of the principal, the conclusion of contracts in an autonomous, stable, and remunerated manner (Article 1(1) of Decree-Law No. 178/86).
- In Portugal, they are governed by Decree-Law No. 178/86 (“Portuguese Commercial Agency Law”), which transposed the Commercial Agents Directive into national law and establishes formal requirements designed to ensure clear and stable contractual relations.
- The relationship between the principal and its commercial agent retains the agent’s independence and autonomy, as the agent does not typically become subordinate to the principal. The Portuguese Commercial Agency Law establishes mandatory provisions on the agent’s duties, such as loyalty and good faith, as well as the principal’s obligation to pay remuneration or commissions for business secured by the agent (Articles 6 and 16 of Decree-Law No. 178/86).
- The agent operates without assuming the commercial risk of the transactions, functioning instead as an intermediary who promotes contracts on the principal’s behalf and may, by written agreement, be conferred powers to finalize those contracts in the principal’s name (Article 2 of Decree-Law No. 178/86).

b) Commissionaire or consignment model

- Under Portuguese law, a commissionaire agreement refers to a non-representative commercial mandate in which the agent (*commissionaire*) acts in their own name but on behalf and for the account of a principal (*comitente*). It is governed by Articles 266 to 277 of the Portuguese Commercial Code.
- The commissionaire is directly bound to the third parties with whom they contract, as if acting on their own behalf. The principal and the third parties have no legal relationship between them, and the commissionaire is required to transfer to the principal

the goods acquired or the results of transactions carried out on the latter’s behalf (Article 268 of the Portuguese Commercial Code).

- The commissionaire is not liable for third-party obligations, unless expressly agreed or established by commercial custom, in which case, the agent is entitled to a “del credere” commission (additional remuneration) (Article 269 of the Portuguese Commercial Code).
- The commissionaire must act within their contractual and legal powers, otherwise incurring personal liability for losses caused by breach or excess of mandate (Articles 270-271 of the Portuguese Commercial Code).
- Additional obligations apply in the context of credit sales, transactions involving financial instruments, and commercial bookkeeping, particularly when dealing with goods or credits from multiple principals (Articles 272 et. seq. of the Portuguese Commercial Code).

c) Distribution (or dealership / reseller) model

- The distribution model is generally governed by contractual freedom under Portuguese law, allowing parties to establish terms that suit their commercial needs. A commercial distribution can assume different modalities. Given the legal atypicality of many of these contracts, their legal regime will primarily derive from the private autonomy of the contracting parties themselves, with the rights and obligations being contractually agreed upon.
- In the absence of specific legislation for distribution agreements, they may be analogously governed by the Portuguese Commercial Agency Law, provided such application is justified by the ratio legis of its provisions.
- Legal interpretation of distribution agreements draws upon several sources: Articles 217 et seq. of the Portuguese Civil Code (general contract law), the General Terms and Conditions Act, and relevant sectoral regulations such as the Competition Law Framework (*Regime Jurídico da Concorrência*), depending on the sector of activity involved.
- Courts and legal doctrine emphasise principles of cooperation, good faith, and fair balance when interpreting these agreements, ensuring that the contractual relationship reflects the commercial reality and expectations of both parties while maintaining competitive market conditions.

d) Franchise model

- A franchise agreement establishes a business partnership whereby an entrepreneur (the franchisor) grants another entrepreneur (the franchisee) the right to exploit and enjoy their business image and respective supporting intangible assets, notably trademarks, within the franchisor's integrated distribution network, in a stable manner and in exchange for remuneration.
- Not specifically regulated under Portuguese law, franchising is characterized as an atypical, innominate, consensual and intuitus personae contract operating through contractual freedom and combining four essential distinctive elements: (i) enjoyment of the franchisor's business image through trademark and other intellectual property rights, (ii) transmission of know-how and provision of technical assistance, (iii) the franchisee's subordination to the franchisor's control and supervision to preserve commercial image integrity, and (iv) its onerous nature, typically involving initial fixed payments and subsequent periodic royalties.
- Beyond its essential elements, the franchise contract often includes secondary clauses, such as exclusivity, minimum stock purchases, financial or accounting support, and non-compete obligations.
- Franchise contracts are primarily governed by the parties' agreements and supplemented by legal analogy to agency contract rules. Other relevant laws include civil rules (Articles 217 et seq. of the Portuguese Civil Code), adhesion contracts (General Contractual Clauses Law), industrial property rights (Articles 31, 32, 262 et. seq. of Decree-Law No. 110/2018 (the “**Portuguese Industrial Property Code**”), Competition Law (Law No. 19/2012), and insolvency law. Important considerations include contract termination, client compensation, and non-competition compensation.

e) Licence model

- Licensing agreements in Portugal constitute atypical contracts without specific comprehensive regulation.
- These agreements are regulated under both industrial property law and copyright law, depending on the type of intellectual property involved, such as trademarks, patents, or software. Under the Portuguese Industrial Property Code framework, licensing agreements enable licensees to use the licensor's intellectual property rights, including trademarks and other IP assets, in exchange for agreed compensation, with specific terms and conditions defined by the contracting parties within the bounds of applicable legal provisions.

- The regulatory framework primarily applies the provisions of the Portuguese Industrial Property Code (notably Articles 30 and 213) and general civil law rules (pursuant to Article 1303 of the Portuguese Civil Code), with analogous application of regimes established for sale and lease contracts.

f) Online distribution models

- There is no specific legal framework for online distribution models in Portugal. These are an adaptation of distribution agreements to the digital environment.
- Therefore, they are governed by general contract, civil and consumer protection law, as well as by Decree-Law No. 7/2004, which transposed the E-commerce Directive and sets out the legal regime for electronic commerce, and by data protection legislation (GDPR).
- Other rules that may apply are those concerning unfair commercial practices and digital platform liability, such as Decree-Law No. 57/2008 (which implements the Unfair Commercial Practices Directive), the Digital Services Act, which establishes intermediary liability and due diligence obligations, and the Platform to Business Regulation, which promotes fairness and transparency in relations between online platforms and business users of online intermediation services.
- There are also sector-specific regulations, such as in the case of online gambling and betting, which are governed by Decree-Law No. 66/2015, that requires operators to obtain specific licences and establishes operational rules for their activities.
- Where distribution arises within online models, the agency contract governed by the Portuguese Commercial Agency Law is typically considered the closest contractual analogue, as it represents the standard legal model for distribution arrangements in Portugal.

g) New distribution models

- Emerging or hybrid distribution models are not codified in Portugal. They are assessed under general civil and commercial contract law, e-commerce law, data protection, competition law, and specific regulations applicable to the chosen method of distribution. The applicable rules vary depending on the risk allocation, control over pricing, and after-sales responsibilities.

2. Is generally a goodwill or compensation payable upon termination by the supplier?

a) Commercial agency model

- The Portuguese Commercial Agency Law provides for indemnification mechanisms upon termination of the agency agreement, including potential indemnity for the client base the agent has developed (referred to as *indemnização de clientela*) provided that the following cumulative requirements are met (Article 33(1) of Decree-Law No. 178/86):
 - The agent has brought in new clients for the principal or has substantially increased the volume of business with existing clients.
 - The principal continues to derive considerable benefits from the agent's activity after termination of the agreement.
 - The agent no longer receives any remuneration in relation to contracts concluded with the aforementioned clients after termination.
- No goodwill compensation is due if (i) the agreement was terminated due to reasons attributable to the agent or (ii) the agent has, by agreement with the principal, assigned their contractual position to a third party (Article 33(3) of Decree-Law No. 178/86).
- In the event of the agent's death, the right to goodwill indemnity may be exercised by the agent's heirs (Article 33(2) of Decree-Law No. 178/86). The right to receive goodwill compensation will lapse if the agent or their heirs fail to notify the principal of their intention to claim such indemnity within one year of the agreement's termination. Legal action must then be brought within one year of this notification (Article 33(4) of Decree-Law No. 178/86).

b) Commissionaire or consignment model

- The Portuguese Commercial Code does not provide for a statutory goodwill or termination indemnity in the context of commissionaire or consignment agreements.
- Compensation for clientele or goodwill is generally not applicable in commissionaire or consignment models since these arrangements do not entail the same continuous business development and transfer of client relationships that characterizes the agency relationship to entail an analogous application of the Portuguese Commercial Agency Law.
- Consequently, any entitlement to indemnity or goodwill upon termination must usually be addressed by contractual agreement or, where no

express provision exists, fall under general civil law principles on damages or unjust enrichment.

c) Distribution (or dealership / reseller) model

- Under Portuguese law, distribution agreements do not generally provide for statutory goodwill or termination compensation, as they are considered atypical contracts governed primarily by contractual freedom and the parties' private autonomy. Unlike commercial agency agreements under the Portuguese Commercial Agency Law, which mandate specific indemnification rights upon termination, distribution contracts rely on the terms explicitly agreed between the parties.
- Therefore, compensation may arise through several legal means: (i) contractual provisions where parties have specifically agreed to termination indemnities, (ii) analogous application of Portuguese Commercial Agency Law in cases where the distribution relationship closely resembles a commercial agency, i.e., where the distributor acts like an agent to the principal, the distributor shall be entitled to goodwill compensation and such application is justified by the ratio legis of the Portuguese Commercial Agency Law, (iii) general civil law principles under Articles 217 et seq. of the Civil Code, particularly regarding damages for breach of contract, unjust enrichment, or violation of good faith obligations, and (iv) case law interpretation that emphasises cooperation, good faith, and fair balance, which may support compensation claims where the distributor has significantly developed the market or client base for the supplier's benefit.
- The availability and extent of such compensation will ultimately depend on the specific circumstances of each case and the contractual framework established by the parties.

d) Franchise model

- There is no specific legal provision in Portugal granting goodwill compensation on franchise contracts as they are atypical and unnamed. However, as their legal regime derives primarily from contractual stipulations, gaps on goodwill compensation can be filled through analogous application of the agency contract rules from the Portuguese Commercial Agency Law. This approach is supported by Portuguese case law, which has extended the Portuguese Commercial Agency Law to all atypical distribution contracts, including franchising, although with some limitations.
- The terms of the franchise agreement may include provisions for compensation related to investments

made by the franchisee. Therefore, whether compensation is due would depend on the contract, the specific circumstances and whether such analogy is justified by the nature of the franchise relationship, requiring a case-by-case analysis.

- If there is contractual imbalance, unrecouped investments, or abusive termination, courts may grant damages or restitution under general liability rules.
- The Supreme Court of Justice in Portugal has already ruled that, in a franchise agreement, damage to clientele is only compensable if the franchisee's decisive and significant contribution to increasing and retaining the franchisor's clientele is alleged and proven (Portuguese Supreme Court of Justice – Decision 06A4416 of 01/09/2007).

e) Licence model

- Licensing agreements generally do not provide for compensation for goodwill upon termination, as the relationship is based on the use of intellectual property rather than market development.
- Since in Portugal licensing agreements constitute atypical contracts governed by scattered provisions and general civil and industrial property law principles, compensation upon termination depends primarily on the specific contractual terms agreed between the parties rather than statutory entitlements. Therefore, parties should explicitly address termination compensation in their licensing agreements, as Portuguese law does not provide automatic protection similar to that found in distribution or commercial agency relationships.

f) Online distribution models

- Unless the contract provides otherwise, there is no automatic goodwill compensation. However, if the arrangement resembles a distribution agreement and the reseller is dependent on the supplier and focuses on long-term market development, courts may consider equitable compensation based on investment, economic dependence, and abrupt termination.

g) New distribution models

- Compensation for goodwill in new distribution models in Portugal depends on the specific arrangement and contractual terms. These models are often flexible and may include provisions for compensation if the distributor has contributed significantly to brand development and the benefits that the principal received

from the contract were much higher than the other party's, and the latter's position was not spontaneously compensated during the contract. Also, damages or restitution may be claimed in case of unjustified termination, non-amortized investments, or abuse of economic dependence.

3. Are there specific points of attention not covered yet in paragraphs (2) and (3), or deviating hereof under your law system?

- Except for the commercial agency model and the consignment model, none of the other distribution models described in paragraph 2 are specifically codified in Portugal. This means that contract law (Portuguese Civil Code) and case law play a crucial role in interpreting and enforcing these models, with significant room for judicial discretion.
- This impacts rights at termination. Notably, only commercial agents have a statutory right to goodwill compensation, which is not automatically extended to distributors, commissionaires, or franchisees.
- Therefore, Portuguese courts may apply general principles of good faith, contractual fairness and abuse of rights to distribution models, especially where one party is economically dependent on the other. This can lead to compensation or invalidation of clauses (e.g., non-competes, unilateral termination).

4. Are there any specific trends in your jurisdiction with respect to those distribution models?

- No specific trends have been identified in Portugal concerning those distribution models.

VII. SPAIN



1. Are the several distribution models codified in local laws and if so, what laws apply?

a) Commercial agency model

- Under an agency contract, a natural or legal person, known as the agent, undertakes to another person, known as the principal, on a continuous basis or in exchange for remuneration to promote commercial acts or transactions on behalf of another person or to promote and conclude them on behalf of and in the name of another person, as an independent intermediary, without assuming, unless otherwise agreed, the risk and venture of such transactions.
- Agency agreements are governed by Law 12/1992 on Agency Agreements.
- The Royal Decree of 22 August 1885, publishing the Spanish Commercial Code and the Royal Decree of 24 July 1889, publishing the Spanish Civil Code apply on a supplementary basis to matters not regulated by Law 12/1992 on Agency Agreements.

b) Commissionaire or consignment model

- A commission contract is a commercial mandate whereby the commission agent undertakes to perform a commercial act or transaction on behalf of another party ("the principal") in exchange for remuneration, known as commission. It is specifically regulated in Articles 244 to 280 of the Spanish Commercial Code.
- On the other hand, a consignment contract is an agreement whereby one party (the consignor) entrusts one or more movable items to another party (the consignee) for a specified value, with the task of selling them. The consignee undertakes to pay the estimated price of the items sold and to return those that have not been sold within the agreed period. This is an atypical contract, governed by the agreements between the parties. However, in practice and in case law, the commercial consignment contract has been considered a type of commercial commission contract or, at least, its rules are applied in a supplementary or analogous manner, given the similarity in their nature and purpose.

c) Distribution (or dealership / reseller) model

- A distributor undertakes to purchase products from another party (supplier) under certain conditions, in order to resell them in a specific geographical area, acting in its own name and on its own behalf. The distributor assumes the risk of the transactions and its profit is the resale margin. They may include exclusivity agreements, whereby the supplier undertakes not to sell to other distributors in that area, and/or the distributor undertakes not to sell competing products.
- This is an atypical contract, so there are no specific regulations governing distribution contracts. It is governed primarily by the agreements between the parties. However, the courts refer to the regulation of similar contracts to resolve disputes. The Agency Contract Law (Law 12/1992 on Agency Agreements) is the most commonly used by analogy, especially with regard to compensation for clientele and post-contractual non-competition agreements, although its application is not automatic and must be adapted to the particularities of distribution, where the distributor acts in its own name and assumes greater risk. Moreover, both the Spanish Commercial Code and the Spanish Civil Code provide the general framework for obligations and contracts. Likewise, Law 7/1996 on the Regulation of Retail Trade may be relevant in certain aspects if the distributor is a retailer, as well as Law 15/2007 on the Defence of Competition is crucial in exclusivity agreements, resale price fixing, and other clauses that may have competitive implications.
- In addition to civil law aspects, European directives and regulations in the field of vertical agreements are applicable and important. With regard to distribution agreements, the VBER applies, as well as its guidelines.

d) Franchise model

- A franchise agreement establishes a business partnership whereby a company (the franchisor) that has developed and tested a product, service, or specific production or distribution process grants independent third-party entrepreneurs (the franchisees) the authorisation to produce and sell, or to sell, or to provide services under the franchisor's distinctive signs and using the franchisor's technical marketing methods. It is regulated by Article 62 of Law 7/1996 on the Regulating Retail Trade and by

Royal Decree 201/2010 regulating the exercise of commercial activity under a franchise system and the communication of data to the register of franchisors, establishing precisely what information must be provided, how and when, and regulates the operation of the Franchisor Register.

- The Supreme Court, in its ruling of June 4, 2020 (appeal number 4164/2017), considers that there is broad scope for the autonomy of the parties in the contractual arrangement of the franchise.

e) Licence model

- A licence agreement is a voluntary agreement whereby the owner of a right (the licensor) authorises a natural or legal person (the licensee) to exploit or use that right in exchange for consideration. The main feature is that ownership or title to the right is not transferred; rather, permission to use it is granted under specific conditions of time, territory, and manner.
- In Spain, there is no specific regulation; the general basis is found in the principle of autonomy of the parties (Article 1255 of the Civil Code). The main applicable regulations are those on industrial property (Law 24/2015 on Patents, Law 17/2001 on Trademarks, and Law 20/2003 on the Legal Protection of Industrial Design), intellectual property (Royal Legislative Decree 1/1996 approving the revised text of the Intellectual Property Law), Law 1/2019 on Trade Secrets, Law 15/2007 on the Defence of Competition, the Spanish Civil Code, and the Spanish Commercial Code.

f) Online distribution models

- Online distribution contracts are not a separate legal category, but rather the adaptation of traditional distribution models to the digital environment.
- This adaptation involves not only applying the rules of agency, concession, or franchise contracts, but also complying with a set of specific regulations: Law 15/2007 on the Defense of Competition, Royal Legislative Decree 1/2007 approving the revised text of the General Law for the Protection of Consumers and Users and other complementary laws, Law 34/2002 on information society services and electronic commerce, the GDPR, the Digital Markets Act, and the Digital Services Act.

g) New distribution models

- The same applies as to online distribution models (see above Chapter D VII. 1. f)).

2. Is generally a goodwill or compensation payable upon termination by the supplier?

a) Commercial agency model

- Under Spanish law, there are two types of compensation that the agent may claim upon termination of the contract, which are cumulative: compensation for clientele and compensation for damages.
- Compensation for clientele, regulated in Article 28 of Law 12/1992 on Agency Agreements, is intended to compensate the agent for the value they have generated for the principal, from which the latter will continue to benefit after the termination of the contract. The agent must prove the following points:
 - The contribution of new customers to the employer or a significant increase in transactions with existing customers.
 - That the agent's activity may continue to produce substantial advantages for the principal after the termination of the contract and is equitably justified by the existence of non-competition agreements, by the commissions lost or by other circumstances that may arise.
 - The compensation may not exceed the average annual remuneration received by the agent during the last five years or, if shorter, during the entire term of the contract.
- A principal who unilaterally terminates an agency contract of indefinite duration shall be obliged to compensate the agent for any damages caused by the early termination, provided that such early termination does not allow for the amortization of expenses incurred by the agent, on the principal's instructions, for the performance of the contract. The law establishes a system of minimum notice periods one month for each year of the contract's validity, with a maximum of six months' notice.
- In accordance with Article 30 of Law 12/1992 on Agency Agreements, the agent shall not be entitled to compensation for clientele or damages:
 - When the principal has terminated the contract due to breach of the legal or contractual obligations incumbent upon the agent.
 - When the agent has terminated the contract, unless the termination was due to circumstances attributable to the principal, or was based on age, disability, or illness and the agent could not reasonably be expected to continue their activities.

- When, with the consent of the principal, the agent has transferred to a third party the rights and obligations they held under the agency contract.

b) Commissionaire or consignment model

- When the commission agreement is terminated in accordance with the contractual provisions, or when a reasonable notice period has been observed, no compensation is payable. Article 279 of the Spanish Commercial Code establishes that the principal may revoke the commission conferred on the commission agent at any stage of the business, by notifying him thereof, but shall always remain bound by the results of the steps taken before the revocation was made known to him.
- The consignment contract does not entail an automatic right to compensation for clientele or for the mere termination of the agreement.

c) Distribution (or dealership / reseller) model

- This is an atypical situation, meaning that there are no specific regulations governing it and therefore there is no automatic right to compensation simply because the contract has been terminated.
- The case law has established that goodwill compensation can be claimed in atypical distribution agreements (including franchise) by analogous application of Law 12/1992 on Agency Agreements. The amount may not exceed the average annual remuneration received by the distributor over the last five years or, if lower, over the entire term of the contract.
- A waiver for the right to claim such goodwill compensation can be included in the distribution contract.
- In case of breach of contract by the supplier, the distributor may claim damages under the general rules of the Civil Code and the Spanish Commercial Code.

d) Franchise model

- Like in the case of distribution agreements, it is an atypical contract. There is doctrinal and jurisprudential debate regarding the applicability of compensatory measures such as compensation for clientele (Article 28 of Law 12/1992 on Agency Agreements).

e) Licence model

- Similar to what applies in the case of a distribution model.

f) Online distribution models

- This really depends on how the online distribution model is classified and which laws apply.

g) New distribution models

- The same applies as to online distribution models (see above Chapter D VII. 2. f)).

3. Are there specific points of attention not covered yet in paragraphs (2) and (3), or deviating hereof under your law system?

N/A.

4. Are there any specific trends in your jurisdiction with respect to those distribution models?

N/A.

VIII. SWITZERLAND



1. Are the several distribution models codified in local laws and if so, what laws apply?

a) Commercial agency model

- Commercial Agency Contracts are regulated by Articles 418a et seq. of the Swiss Code of Obligations (“CO”, SR 220). An agent is a person who undertakes to act on a continuous basis as an intermediary for one or more principals in facilitating or concluding transactions on their behalf and for their account without entering into an employment relationship with them.
- The provisions governing brokerage contracts (Articles 412 et seq. CO) apply by way of supplement to agents acting as intermediaries and those governing commissions (Articles 425 et seq. CO) apply by way of supplement to agents acting as proxies (Article 418b CO).
- However, only certain provisions of the CO are mandatory law:
 - oArticle 418m para. 1 CO: The principal is obliged to pay the agent appropriate compensation if, in breach of his legal or contractual obligations, he is at fault in preventing the agent from earning the volume of commission that was agreed or to be expected in the circumstances.
 - Article 418m para. 2 CO: Where an agent who is permitted to represent only one principal at a time is prevented from working through no fault of his own by illness, Swiss compulsory military service or similar reasons, he is entitled for a relatively short period to adequate compensation for loss of income, provided the commercial agency contract has lasted for at least one year.
 - Article 418u CO: Where the agent’s activities have resulted in a substantial expansion of the principal’s clientele and considerable benefits accrue even after the end of the agency relationship to the principal or his legal successor from his business relations with clients acquired by the agent, the agent or his heirs have an inalienable claim for adequate compensation, provided this is not inequitable.

b) Commissionaire or consignment model

- Commission contracts are ruled by Articles 425 et seq. CO. A buying or selling commission agent is a person who, in return for a commission, buys or sells chattels or securities in his own name but for the account of another (the principal). However, there are no mandatory provisions.

c) Distribution (or dealership / reseller) model

- Distribution contracts under Swiss law are not specifically regulated in the CO. Instead, they are considered “innominate contracts”, meaning they are governed by general contract law principles and, where appropriate, by analogy to similar contracts such as sales or agency agreements.
- In a typical distribution agreement, a supplier grants a distributor the right to purchase and resell products under agreed conditions. The distributor acts in its own name and for its own account, bearing the commercial risk and enjoying a relatively high degree of independence compared to agents. While the CO does not provide a legal definition or detailed rules for distribution contracts, parties must still comply with general contract law, competition law, and sector-specific regulations.
- The Federal Cartel Act (“CartA”, SR 251), containing provisions on vertical agreements between companies, is particularly relevant for distribution Agreements. The Swiss Competition Commission (Wettbewerbskommission, “WEKO”) published a notice on vertical agreements (Vertikalbekanntmachung, “VertBek”) and a corresponding explanatory note (Erläuterungen zur VertBek). With this regulation the WEKO intends to increase legal certainty on the application of the CartA for companies entering into vertical agreements. The VertBek and the explanatory note are less extensive than the European VBER but are explicitly inspired by their European counterparts. In consequence, also the practice of the WEKO and Swiss Courts is heavily influenced by the practice of the European Commission and the Court of Justice of the European Union (“CJEU”).

d) Franchise model

- Franchise agreements are also not specifically regulated by the Swiss CO and are treated as innominate contracts. In Switzerland, a franchise

relationship is typically formed between a franchisor and a franchisee, where the franchisee operates as an independent entrepreneur and uses the franchisor's business concept, trademarks, and know-how in exchange for fees or royalties.

- According to the Swiss Federal Supreme Court, franchise agreements are a specific and unique kind of contract that have to be judged on a case-by-case basis. There is no established practice regarding the scope of provisions that can be applied analogously or the conditions for analogous application. In general, based on the specific circumstances of the case and the contract, provisions of the CO regarding agency, partnership or – in extreme cases of subordination – even employment agreements may apply. Additional relevant legislation includes the intellectual property laws, unfair competition law, and the CartA (see Chapter D. VIII. 1. c)).

e) Licence model

- Licensing contracts, like distribution and franchise agreements, are not specifically regulated in the Swiss CO and are considered innominate contracts. A licence agreement typically allows one party (the licensor) to grant another party (the licensee) the right to use intellectual property, such as trademarks, patents, or copyrights, under specified terms. The general rules of contract law and the CartA apply – intellectual property laws are particularly relevant.

f) Online distribution models

- Online distribution models, including e-commerce and digital platforms, are not expressly regulated as a separate contract type in the CO. These contracts generally fall under the scope of general contract law and may incorporate elements of sales, distribution, or agency agreements, depending on the structure of the online business.
- The Swiss Unfair Competition Act (UCA, SR 241) qualifies in a general sense any conduct or business practice that is misleading or which otherwise violates the principle of good faith such that it influences the relationship between competitors or between suppliers and customers as unfair and unlawful. It contains a set of general and more specific rules protecting consumers, which are of particular relevance for online distributors.

g) New distribution models

- The same applies as for online distribution models (see above Chapter D VIII. 1. f)).

2. Is generally a goodwill or compensation payable upon termination by the supplier?

a) Commercial agency model

- Under Article 418u CO, the agent has an inalienable claim for adequate compensation if his activities have resulted in a substantial expansion of the principal's clientele and considerable benefits accrue even after the end of the agency relationship to the principal or his legal successor from his business relations with clients acquired by the agent. Although this provision is mandatory, the court has a lot of discretion in regard to the specific prerequisites:
 - An agent's right to customer compensation arises at the end of the agency relationship, provided the termination was not caused by the agent's own fault. Grounds attributable to the agent, which, however, do not need to necessarily need constitute reasons justifying immediate termination ("good cause"), can exclude the right to compensation. Circumstances like illness, death, or expiration of the contract term are not sufficient.
 - A significant expansion of the client base is generally admitted when the turnover has been augmented yearly by 15% over the entire contract duration. However, not every customer counts when assessing whether the agent has significantly expanded the client base; only those customers who establish lasting business relationships are relevant. The principal must be able to derive substantial benefits from the expanded customer base, and customer loyalty – especially for goods of recurring need – is a key factor.
 - The principle of fairness ("Billigkeit") is a requirement for the claim. If the agent was already sufficiently compensated for expanding the customer base during the contract (e.g., through high commissions or a long-term relationship), the claim may be excluded.
 - The maximum amount of clientele compensation is generally capped at the agent's average annual net earnings over the past five years.
- Article 418u CO is also applicable by analogy to other distribution models under certain circumstances (see Chapter D. VIII. 2. c)). With exception of exclusive distribution contracts, no decision has yet been made as to which other distribution models Article 418u CO will apply to by analogy. However, there is no analogous application to non-exclusive distribution relationships.

b) Commissionaire or consignment model

- To commission contracts, the rule of Article 418u CO does not apply, particularly because the commission agent does usually not act as exclusive distribution partner of the principal.

c) Distribution (or dealership / reseller) model

- Under certain circumstances, Article 418u CO may apply by analogy to exclusive (but not non-exclusive) distribution agreements. Swiss courts have ruled that Article 418u OR is mandatory even when applied analogously to exclusive distribution agreements.
- The Federal Supreme Court specified individual criteria that would speak in favour of an analogous application of Article 418u OR to exclusive distribution agreements. The existence of these criteria is an indication that the sole distributor is so closely integrated into the supplier's distribution network that he is in an economic position comparable to that of an agent. The Federal Supreme Court considered the following contractual agreements to be relevant in this regard:
 - Requirement for the supplier's consent to new sales locations.
 - Minimum annual purchase quantities of goods.
 - Right of the supplier to unilaterally change the price and delivery terms at the expense of the exclusive distributor.
 - Right of the supplier to discontinue the production or marketing of any product at any time.
 - Obligation of the exclusive distributor to spend a minimum amount each year on advertising to promote sales of the supplier's products.
 - Obligation of the exclusive distributor to maintain a certain level of stock.
 - Monthly reporting and information obligations of the exclusive distributor regarding its own turnover and the activities of competitors.
 - Obligation of the exclusive distributor to disclose his business records to the supplier.
 - Obligation of the exclusive distributor to immediately cease all sales activities relating to the supplier's products upon termination of the contractual relationship.

d) Franchise model

- There is no case law whether Article 418u CO is also applicable by analogy to franchise agreements and the doctrine is divided in this regard.
- If the criteria defined for the analogous application of

Article 418u CO are also fulfilled in franchise agreements (see Chapter D. VIII. 2. c)), the analogous application of Article 418u CO on franchise relationships cannot be excluded. However, the courts tend to apply Article 418u CO generally with great restraint, especially when an application by analogy is in question.

e) Licence model

- If the licence agreement implies exclusivity and the criteria defined for the analogous application of Article 418u CO are fulfilled (see Chapter D. VIII. 2. c)), the analogous application of Article 418u CO on licence relationships cannot definitively be excluded. However, the courts tend to apply Article 418u CO generally with great restraint, especially when an application by analogy is in question.

f) Online distribution models

- The same assessment as for the licence model is applicable to online distribution models (see Chapter D. VIII. 2. e)).

g) New distribution models

- The same assessment as for the licence model is applicable to new distribution models (see Chapter D. VIII. 2 e)).

3. Are there specific points of attention not covered yet in paragraphs (2) and (3), or deviating hereof under your law system?

- As the legal framework for distribution contracts in Switzerland is very liberal and mandatory provisions apply only in specific circumstances, the choice of Swiss law and Swiss jurisdiction for companies entering into distribution relationships is very popular and established. Especially the Commercial Court of the Canton of Zurich has an excellent reputation in dealing with international matters due – among general aspects related to Swiss jurisdiction (e.g. central location in Europe, enforceability under the “Lugano” Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters) – to its experience and expertise with international commercial matters and its efficiency (in particular to reach amicable settlements). Appeals against decision of the Commercial Court must be filed with the Federal Supreme Court directly and are, generally, limited to

questions of law, but not facts. Additionally, there should soon be the possibility to conduct the entire proceedings formally in English before the to be established “Zurich International Commercial Court”, which forms part of the Commercial Court of the Canton of Zurich, thereby further enhancing the efficiency of a litigation.

4. Are there any specific trends in your jurisdiction with respect to those distribution models?

- In 2023, the Swiss legislator introduced the concept of relative market power. It targets situations where a company is not necessarily dominant in the overall market, but another company is dependent on it for the supply or purchase of goods or services and has no sufficient or reasonable alternatives to switch to other suppliers or customers. Especially cases, where the dominant party restricts the dependent party from purchasing goods and services offered both in Switzerland and abroad at the market prices and conditions customary in the industry in the foreign country can be addressed to a greater extent with introduction of relative market power.

IX. UNITED KINGDOM



1. Are the several distribution models codified in local laws and if so, what laws apply?

a) Commercial agency model

- Relationships between principals and commercial agents in England and Wales are governed by common law rules (i.e. case law) on agency. The parties are free to depart from these rules in their agency agreement if they wish.
- Where a commercial agent has continuing authority to sell goods then the relationship between agent and principal may also be governed by the Commercial Agents (Council Directive) Regulations 1993 (the “**1993 Regulations**”). The 1993 Regulations implemented the Commercial Agents Directive when the UK was a member of the EU and they remain part of UK law. The 1993 Regulations create additional protections for agents, many of which are mandatory and cannot be excluded in the agency agreement between the parties. The 1993 Regulations do not apply to agents that have been appointed to sell services.
- In addition to the agency specific rules, some statutory rules applicable to all contract types in the UK will regulate the agency agreement. In particular, under the Unfair Contract Terms Act 1977, exclusion of liability clauses in either party’s standard agency agreement terms will not be enforceable unless they are reasonable.
- In a genuine agency relationship, exclusivity obligations, non-compete obligations and other restrictions on competition in an agency agreement are not subject to any regulation under UK law as the agent is not regarded as a separate entity from the principal for competition law purposes, but merely an extension of the principal itself.

b) Commissionaire or consignment model

- UK law does not have a direct equivalent to the concept of a commissionaire that exists in European jurisdictions. The closest equivalent is an agent that sells goods without disclosing the identity of its principal to the end customer. In these cases, when the agent sells goods, a contract of sale is created between the agent and the customer. However, if the identity of the principal is subsequently disclosed, the

customer may also elect to enforce the contract of sale against the principal. The relationship between an undisclosed principal and its agent is governed by common law (case law). If the agent has continuing authority to sell goods, then the 1993 Regulations will also apply.

- In the UK a consignment model may be created between a manufacturer or brand owner and a distributor. In these cases, the distributor takes stock for resale and can return the stock to the manufacturer if it is unable to sell it. Usually, title to the stock passes to the distributor immediately prior to any resale to an end customer, but until then it remains with the manufacturer. This is a special type of distribution agreement and not an agency agreement. The rules applicable to distribution agreements are summarised below.

c) Distribution (or dealership / reseller) model

- Distribution arrangements are principally governed by common law (case law). The parties are generally free to agree their own terms in the distribution agreement.
- The common law is supplemented by a few Acts of Parliament. Principally these are the Unfair Contract Terms Act 1977 (which regulates unreasonable exclusion clauses), the Sale of Goods Act 1979 (which implies certain terms into the contract of sale between manufacturer and distributor – most notably in relation to the transfer of title and the quality of the goods) and the Supply of Goods and Services Act 1982 (which implies terms into contracts for the supply of both goods and services). The terms implied by statute fill in many of the gaps if the parties have not documented their relationship in a written agreement and supplement the written agreement if the parties have entered into one. The parties are free to exclude most of the terms implied by statute in their own written agreement, but not all of them. Most notably, Section 12 of the Sale of Goods Act implies a term that the seller will provide good title to the goods sold, and this term cannot be excluded.
- Exclusivity obligations, non-compete obligations and other restrictions on competition in distribution agreements in the UK are regulated by the “Chapter 1 Prohibition” in the Competition Act 1998. This legislation is modelled on Article 101 TFEU and is, for most purposes, identical to Article 101 TFEU. If the distribution agreement has an effect on trade between member states of the EU, then Article 101

TFEU will also apply, regardless of the law governing the contract. Under the Chapter 1 Prohibition and Article 101 TFEU, agreements between undertakings that restrict or distort competition are void, unless they can be shown to be necessary to achieve overall benefits to consumers.

- Many common restrictions in distribution agreements (such as exclusive distribution rights) will be regarded as exempt from the Chapter 1 Prohibition by virtue of the Vertical Agreements Block Exemption Order (“VABEO”). This order exempts certain restrictions in vertical agreements that are regarded as having a net beneficial effect on competition. The VABEO is modelled on, and is almost identical to, the European equivalent, namely the VBER.

d) Franchise model

- Unlike many other jurisdictions, there is no dedicated law for franchise arrangements in the UK, and they are therefore subject to general contract principles under the laws of England and Wales, or Scotland or Northern Ireland.
- Since most franchise agreements will be written on the franchisor’s standard terms and conditions of business, the Unfair Contract Terms Act 1997 will apply and will regulate any exclusion clauses that the Franchisor wishes to include in the agreement.
- Any restrictions on competition in the franchise agreement will be regulated by the Chapter 1 Prohibition and the VABEO (for more information on this legislation see Chapter D IX. 1. c)).
- The British Franchise Association (“BFA”) oversees franchise agreements and offers membership to franchisors and franchisees. The BFA produces guidelines for franchise arrangements, but these are not legally binding.

e) Licence model

- Licensing arrangements are principally governed by common law (case law). The parties are generally free to agree their own terms in the licence agreement.
- The common law is supplemented by a number of statutes that regulate contracts generally that may apply to some of the terms in the licence agreement. If a licence agreement is issued on the licensor’s standard terms, then the legislation that is most likely to be relevant is the Unfair Contract Terms Act 1977 which requires that certain exclusion clauses in either party’s standard terms of business must be reasonable.
- In terms of competition law regulation, licences for

the purposes of technology transfer (i.e. the incorporation of technology, including software, within a separate contract product) is assessed under the Chapter 1 Prohibition and the UK Retained Technology Transfer Block Exemption Regulation whereas the licensing of software copyright for use by the licensee or for the purposes of onward resale without adaptation by the licensee is assessed as a vertical supply agreement under the VBER and VABEO (for more information on this legislation (see Chapter D IX. 1. c)).

- Ownership and enforcement of Intellectual property agreements rights is governed in the UK principally by the Copyright, Designs and Patents Act 1988.

f) Online distribution models

- A brand owner that sells direct to consumers online from the UK must comply with a range of statutory legislation designed to protect the end consumer. Some of this is based on EU law that was adopted by the UK prior to Brexit, and which remains part of UK law after Brexit.
- Under the Consumer Rights Act 2015, certain mandatory terms are implied into contracts of sale to consumers which give them rights in relation to the quality of goods sold and the remedies they are entitled to if there are defects.
- Under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, the trader must provide certain mandatory pre-contract information to the consumer, and the consumer is granted cancellation rights (a right to change their mind and return the goods).
- Additional obligations to provide information to the consumer or on the website where the goods are sold are contained in the Electronic Commerce (EC Directive) Regulations 2002, the Provision of Services Regulations 2009 and the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015.
- For goods, services or digital content sold on a subscription basis a new regime is being introduced in the UK by the Digital Markets, Competition and Consumers Act 2024. A single set of rules will apply regardless of how the contract is formed. Traders will have to give consumers pre-contract information, renewal reminders, easy termination routes and end-of-contract notices. Consumers will also have cooling-off rights at specific intervals. This is expected to come into force in April 2026.

g) New distribution models

N/A.

2. Is generally a goodwill or compensation payable upon termination by the supplier?a) Commercial agency model

- If the 1993 Regulations apply, the principal and agent are free to choose between two methods of termination payment in the contract (compensation or indemnity). In the absence of a choice, the compensation option applies. The compensation method has no maximum whereas the indemnity method is capped at two years' worth of commissions. The indemnity method is therefore preferred by most principals as it gives a greater degree of certainty about the potential maximum liability.
- The method of calculating the amount due to the agent is intended to compensate him for the loss of the goodwill he has introduced. The 1993 Regulations do not apply a clear formula for calculating the termination payment and are supplemented by complex case law. The termination compensation / indemnity rules in the 1993 Regulations cannot be contracted out of by the parties.
- If the 1993 Regulations do not apply to the agency relationship, there is no general right of compensation for termination of the agency agreement.

b) Commissionaire or consignment model

- If the 1993 Regulations apply to a relationship between an undisclosed principal and the agent (the equivalent of a commissionaire agent in the UK), then the agent may be entitled to compensation under the regulations, as described in the section on Agents above.
- A distributor selling goods on a consignment basis will not have a general right under UK law to a compensation payment on termination of the distribution agreement. However, general contract law principles apply and in some circumstances the distributor may be entitled to compensation if the contract was terminated other than in accordance with the agreement or relevant contract laws.

c) Distribution (or dealership / reseller) model

- There is no specific law entitling the distributor to compensation on termination. However, general contract law principles apply and in some circumstances the distributor may be entitled to compensation if the contract was terminated other than in accordance with the agreement or relevant contract laws.

d) Franchise model

- There is no specific law entitling a party to receive compensation on early termination of a franchise agreement (other than where general contract law principles apply). Instead, it is typical of franchise agreements for the franchisor to implement an early termination fee and recover sums they would have received had the agreement continued for the full term.

e) Licence model

- There is no specific law for licence models, therefore only general contract law principles apply. The distributor may be able to make a claim for damages if the contract was terminated other than in accordance with the agreement or relevant contract laws.

f) Online distribution models

N/A.

g) New distribution models

N/A.

3. Are there specific points of attention not covered yet in paragraphs (2) and (3), or deviating hereof under your law system?

The main points of difference between the UK and other jurisdictions covered above are as follows:

- The UK has a separate competition law regime for agreements that affect trade within the UK. However, this is modelled on the EU competition law regime and is almost identical.
- The UK does not have a concept of commissionaire agents. However, the concept of an agent with an undisclosed principal is very similar.

4. Are there any specific trends in your jurisdiction with respect to those distribution models?

- **Selective distribution:** Brands are increasingly using selective distribution systems to control the quality and image of their products at the retail level. These systems involve setting criteria for authorised retailers, such as store standards, location, and staff training. A desire to avoid brands being sold on eBay and Amazon often lie behind a strategy of setting up a selective distribution system.
- **Dual distribution:** Suppliers are increasingly engaging in dual distribution, where they sell through both their own online channels and independent distributors.

CONCLUSION

Comparative Legal Study Distribution Models

This comparative legal study has provided a comprehensive overview of traditional and emerging distribution models available to suppliers and manufacturers seeking to market their products or services, particularly through intermediaries. In addition to outlining the structural characteristics of each model, the study presents a country-by-country analysis of the applicable legal frameworks in nine of Europe's largest economies: Germany, the United Kingdom, France, Italy, Spain, The Netherlands, Switzerland, Belgium and Portugal.

Our analysis reveals that distribution models across Europe differ not only in their commercial setup but also in their legal treatment – particularly with regard to termination rights, risk allocation, and compliance with competition law. While certain models, such as the commercial agency, benefit from harmonized EU legislation and codification in most jurisdictions, other distribution models are often governed by general contract law or case law, resulting in considerable national variation.

When choosing the right distribution model, besides the legal consequences, one needs to take into account the commercial benefits and disadvantages and also the financial, fiscal and logistical consequences.

Key questions include:

- How much control is needed over branding, pricing, and customer experience?
- What level of risk is acceptable in terms of inventory, payment, and liability?
- How would ending or restructuring the intermediary relationship affect the supplier's market access, brand visibility, customer retention, and financial resilience?

With this comparative legal study, we hope to make it easier for suppliers and manufacturers to make an informed decision.

Should you have any questions or require tailored advice, please feel free to contact the contributors listed in Chapter F or reach out via the Distribution Law Network.

Distribution Law Network, 1 October 2025

WHO'S WHO

Comparative Legal Study Distribution Models

DLN is made possible by the contributions of individual law firms and legal experts from all over Europe, who together form a comprehensive, experienced and collaborative lawyers network within the EU.

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Comparative Legal Study Distribution Models

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The contents of the study are provided by various different lawyers or law firms. No individual lawyer or law firm assumes responsibility for the information provided by any other contributor to this study.

GLOSSARY OF LEGAL SOURCES

Legal Sources in the European Union

- **Audiovisual Media Services Directive:** Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services.
- **Commercial Agents Directive:** Council Directive 86/653/EEC of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents.
- **Consumer Rights Directive:** Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council.
- **Digital Markets Act:** Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828.
- **Digital Services Act:** Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC.
- **E-commerce Directive:** Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market.
- **European Accessibility Act:** Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services.
- **GDPR (General Data Protection Regulation):** Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.
- **General Product Safety Regulation:** Regulation (EU) 2023/988 of the European Parliament and of the Council of 10 May 2023 on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council and Directive (EU) 2020/1828 of the European Parliament and the Council, and repealing Directive 2001/95/EC of the European Parliament and of the Council and Council Directive 87/357/EEC.
- **Packaging and Packaging Waste Directive:** European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste.
- **Platform to Business Regulation:** Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services.
- **TFEU:** The Treaty on the Functioning of the European Union.
- **Unfair Commercial Practices Directive:** Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending

Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council.

- **Unfair Terms Directive:** Council Directive 93/13/EEC on unfair terms in consumer contracts.
- **Vertical Block Exemption Regulation (“VBER”):** Commission Regulation (EU) 2022/720 of 10 May 2022 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices.

Legal Sources in Belgium

- **Belgian Civil Code:** Code civil
- **Belgian Code of Economic Law:** Code de droit économique.
- **Law of 4 April 2019:** 4 avril 2019 - Loi modifiant le Code de droit économique en ce qui concerne les abus de dépendance économique, les clauses abusives et les pratiques du marché déloyales entre entreprises.

Legal Sources in France

- **French Civil Code:** Code civil.
- **French Commercial Code:** Code de commerce.
- **French Intellectual Property Code:** Code de la propriété intellectuelle.
- **Law No. 2004-575:** Loi n° 2004-575 du 21 juin 2004 pour la confiance dans l'économie numérique.

Legal Sources in Germany

- **German Civil Code:** Bürgerliches Gesetzbuch.
- **German Commercial Code:** Handelsgesetzbuch.
- **German Unfair Competition Act:** Gesetz gegen den unlauteren Wettbewerb.
- **German VAT Act:** Umsatzsteuergesetz.

Legal Sources in Italy

- **Italian Civil Code:** Codice civile.
- **Italian Industrial Property Code:** Codice della proprietà industriale.
- **Law No. 129/2004:** Legge 6 maggio 2004, n. 129.
- **Legislative Decree No. 70/2003:** Decreto Legislativo n. 70/2003.
- **Legislative Decree No. 206/2005:** Decreto Legislativo n. 206/2005.

Legal Sources in Spain

- **Spanish Civil Code:** Código civil.
- **Spanish Commercial Code:** Código de comercio.
- **Law 12/1992 on Agency Agreements:** Ley 12/1992, de 27 de mayo, sobre Contrato de Agencia („LCA“).
- **Law 7/1996 on the Regulating Retail Trade:** Ley 7/1996, de 15 de enero, de Ordenación del Comercio Minorista.
- **Law 17/2001 on Trademarks:** Ley 17/2001, de 7 de diciembre, de Marcas.
- **Law 34/2002 on information society services and electronic commerce:** Ley 34/2002, de 11 de julio, de servicios de la sociedad de la información y de comercio electrónico.
- **Law 20/2003 on the Legal Protection of Industrial Design:** Ley 20/2003, de 7 de julio, de Protección Jurídica del Diseño Industrial.
- **Law 15/2007 on the Defense of Competition:** Ley 15/2007, de 3 de julio, de Defensa de la Competencia.

- **Law 24/2015 on Patents:** Ley 24/2015, de 24 de julio, de Patentes.
- **Law 1/2019 on Trade Secrets:** Ley 1/2019, de 20 de febrero, de Secretos Empresariales.
- **Royal Decree 201/2010 regulating the exercise of commercial activity under a franchise system and the communication of data to the register of franchisors:** Real Decreto 201/2010, de 26 de febrero, por el que se regula el ejercicio de la actividad comercial en régimen de franquicia y la comunicación de datos al registro de franquiciadores.
- **Royal Decree 1/2007, of 16 November, approving the revised text of the General Law for the Protection of Consumers and Users and other complementary laws:** Real Decreto Legislativo 1/2007, de 16 de noviembre, por el que se aprueba el texto refundido de la Ley General para la Defensa de los Consumidores y Usuarios y otras leyes complementarias.
- **Royal Legislative Decree 1/1996 approving the revised text of the Intellectual Property Law:** Real Decreto Legislativo 1/1996, de 12 de abril, por el que se aprueba el texto refundido de la Ley de Propiedad Intelectual, regularizando, aclarando y armonizando las disposiciones legales vigentes sobre la materia.

Legal Sources in the Netherlands

- **Dutch Civil Code:** Burgerlijk Wetboek.

Legal Sources in Portugal

- **Portuguese Civil Code:** Código civil.
- **Decree-Law No. 446/85 (“General Terms and Conditions Act”):** Decreto-Lei n.º 446/85, de 25 de outubro.
- **Decree-Law No. 178/86:** Decreto-Lei n.º 178/86, de 3 de julho.
- **Decree-Law No. 110/2018 (“Portuguese Industrial Property Code”):** Decreto-Lei n.º 110/2018, de 10 de dezembro.
- **Decree-Law No. 7/2004:** Decreto-Lei n.º 7/2004, de 7 de janeiro.
- **Decree-Law No. 57/2008:** Decreto-Lei n.º 57/2008, de 26 de março.
- **Decree-Law No. 66/2015:** Decreto-Lei n.º 66/2015, de 29 de abril.
- **Law No. 19/2012:** Lei n.º 19/2012, de 8 de maio.

Legal Sources in Switzerland

- **Swiss Cartel Act:** Kartgellgesetz.
- **Swiss Code of Obligations („CO“):** Obligationenrecht.
- **Swiss Unfair Competition Act:** Bundesgesetz gegen den unlauteren Wettbewerb.

Legal Sources in the United Kingdom

- **Copyright, Designs and Patents Act 1988.**
- **Commercial Agents (Council Directive) Regulations 1993 (“1993 Regulations”).**
- **Consumer Rights Act 2015.**
- **Digital Markets, Competition and Consumers Act 2024.**
- **Electronic Commerce (EC Directive) Regulations 2002.**
- **Provision of Services Regulations 2009.**
- **Sale of Goods Act 1979.**
- **Supply of Goods and Services Act 1982.**
- **The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015.**

- The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013.
- Unfair Contract Terms Act 1977.
- UK Retained Technology Transfer Block Exemption Regulation.
- Vertical Agreements Block Exemption Order („VABEO“).

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