



Agency and
distribution
arrangements

“Simmons is absolutely fantastic. The advice is clear and concise. We’ve never had issues.”

Chambers UK 2014

Core strengths

One of the most important decisions for a business is the appointment of an intermediary to market the products of the business to third parties. The appointment may be domestic or for other countries as part of an international expansion. Two arrangements commonly used are the appointment of an agent and the appointment of a distributor. Ensuring that the most suitable arrangement is chosen for the circumstances can be a difficult one, in light of the legal implications of each arrangement.

“...‘overall level of service is high, and the knowledge among the lawyers is very good’.”

Legal 500 2013

Our team has significant experience in advising businesses on agency and distribution arrangements. As one of the few international law firms with a dedicated commercial law practice, we provide practical advice and assistance from strategic planning to dealing with negotiation and implementation of contracts and contract management.

Our services

We are able to cover the full range of issues:

- Advising on most suitable arrangement, including analysis against the regulatory requirements of multiple jurisdictions, for example the EU Commercial Agents Directive 86/653 and its local implementation such as the Commercial Agents (Council Directive) Regulations 1993
- Drafting all commercial contracts end to end throughout the supply chain including supply, distributorship, agency, terms and conditions for end users, warehousing, and logistics
- Advising on contract law issues, including interpretation of existing contract terms, termination of existing contracts, including possible financial implications of termination such as payment to a commercial agent in the EU, assistance on disputes and negotiation, settlement and mediation of disputes
- Advising on supply chain implications, including supply chain finance, factoring and trade receivables, and logistics
- Advising on product safety, product recall and product liability, including risk evaluation, regulatory compliance, crisis management, product liability claims defence and class or group action risks
- Advising on competition law, including whether the parties can benefit from the Vertical Block Exemption Regulation 330/2010 in the EU and relevant domestic competition law
- Advising on protection of intellectual property assets for brands and trade marks, offering the full range of clearance, registration, conflict resolution, enforcement and portfolio management services
- Advising on tax implications of agency and distributorship arrangements
- Providing multijurisdictional advice on cross border transactions, using not only our own offices but our network of advisors and a knowledge base spanning the globe
- Advising on consumer protection issues, including labelling, marketing, advertising and sale of goods

“They have the ability to filter their legal advice through a commercial prism.”

Chambers 2015

Expertise in practice

Our lawyers' experience includes advising:

European-based electronic and electromechanical devices manufacturer

- on the appointment of Chinese agents and distributors of the company's products in People's Republic of China

China Telecom

- on the appointment of promotion and sales agents across the Asia-Pacific region

Parvin/IPS

- on a dispute with its principal both operating in the petrochemical, oil and gas sector

NKB Technologie GmbH

- on a dealership agreement NKB Technologie GmbH was about to enter into with a Dutch supplier

US Multinational Chemical Company

- on legal risks relating to the termination of Agency and Distribution Agreements in 25 countries in the EMEA region, including France and UK

Various Multinational Pharmaceutical companies

- on drafting and negotiating distribution agreements concluded with pharmacies, central purchasing agencies, and wholesale distributors

The Third Eye SPC

- on a dealership arrangement for the promotion and resale of software products in Kuwait, Saudi Arabia, Bahrain, UAE, Qatar, Oman, Yemen, Jordan, Iraq, Lebanon, Syria, Egypt and Turkey

Minimax GmbH & Co. KG

- on an agency arrangement for the marketing and sale of fire fighting systems in Qatar

Garmin (Europe) Limited

- on its distribution arrangement in Qatar

SPX

- on how SPX might introduce the business of selling, installing, servicing and supporting electric vehicle charging equipment and components to the Dutch market from a legal perspective. This project covered the Netherlands, UK, France, Italy, Spain, Germany, Denmark, Sweden, Austria and Switzerland

Italian furniture producer

- on its dispute against a former distributor in Germany over a post-termination payment

Major American clothing retailer

- on termination of agency agreements in the UK, Spain and Italy including settlement over post-termination compensation

American wine producer

- on drafting and negotiation of distribution agreements in France, Belgium, Netherlands and Switzerland

Perfume Holding SAS / Morris Profumi SpA

- on the drafting of various distribution agreements for perfume and cosmetic products with (sub)-distributors in various jurisdictions including Germany and the Middle East

Wind Telecomunicazioni SpA

- on the drafting of various mobile telecommunication devices distribution agreements in Italy

Mighty Oak

- on drafting an agency agreement designed to set up an agency network with agents based in Spain for commercialising Mighty Oak's mainline product

Pharmaceutical and medical devices manufacturer

- on the consequences of the termination of its distribution agreement and assisting this manufacturer with finding an amicable settlement with its exclusive distributor in Belgium

Italian manufacturer

- on a Belgian arbitration procedure with regards the consequences of the termination of an agency agreement.

Key international contacts

Key contact biographies can be viewed at simmons-simmons.com

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