

# Public consultation on the Evaluation of the Commercial Agents Directive

Fields marked with \* are mandatory.

## Introduction

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Commercial agents are self-employed intermediaries authorised on a permanent basis to negotiate the sale or purchase of goods in the name and on behalf of another person (the principal). The objective of the Commercial Agents Directive was to move towards a single market for commercial representation and improve the conditions of competition by facilitating the conclusion and operation of commercial representation contracts across borders through harmonised rules.

For this purpose, the Directive defines the commercial agents falling under its scope and harmonises the rights and obligations of commercial agents and their principals, and defines rules for the remuneration of the commercial agent, the conclusion and the termination of the contract and the restraint of trade after the termination of the contract.

The purpose of the consultation is to get more in-depth information on the functioning of the directive, including from stakeholders representing commercial agents, principals or consumers. The responses to the consultation will support the evaluation of the Directive.

The consultation questionnaire contains questions about (i) the impact of the Directive since its entering into force, in particular regarding its significance for SMEs and cross-border activities, (ii) the relevant market of commercial agents and principals and (iii) stakeholder views on the future of the Directive.

More information:

- [on this consultation](#)
- [on the protection of personal data regime for this consultation](#)  [de](#) [en](#) [fr](#)

## 1. Information about the respondent

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Are you replying as:\*

- ☐ a commercial agent or an organisation representing commercial agents
- ☐ a company (principal) using the services of commercial agents or an organisation representing principals
- ☐ a private individual
- ☒ other

Please specify:\*

**an organisation representing principals (but also a few commercial agents)**

Please indicate your full name (name of the organisation/authority/company as applicable)\*

**BOVAG**

Please indicate your contact details\*

**BOVAG, Kosterijland 15, 3981 AJ Bunnik, The Netherlands**

Please indicate your email address\*

**juridisch@bovag.nl**

Please specify your country of residence or establishment. If responding on behalf of an organisation/association, please indicate the countries represented by your membership.\*

- ☐ All Member States of the European Union
- ☐ Austria
- ☐ Belgium
- ☐ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czech Republic
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary
- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Malta
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovakia
- ☐ Slovenia
- ☐ Spain
- ☐ Sweden
- ☒ The Netherlands
- ☐ United Kingdom

## 2. Questionnaire

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### 2.1 General Questions on the Commercial Agents Directive

Does the legislation help to facilitate cross-border activities of commercial representation?

- ☐ No effect
- ☐ Very limited effect
- ☐ Partial effect
- ☒ Significant effect
- ☐ Don't know

Please explain:

**The Directive helps to facilitate cross-border activities of commercial representation because it provides a clear legal framework for commercial agents (and for principals using the services of commercial agents) at European level.**

What are the main costs and benefits of the Directive for (i) commercial agents and (ii) principals?

In general, the Directive helps to unify legal situations and it provides legal certainty.  
The Directive enables commercial agents to create business without the risk/obligation of major investments. In case of termination, commercial agents have a clear remuneration.  
This 'remuneration' could result in costs for the principal after termination of an agreement. Nevertheless, principals may benefit from cooperation with commercial agents because they can have direct access to customers and, in practice, it can be a relatively low-cost and efficient (for both principals and commercial agents) way of distribution. .

What effects does the Directive have on SMEs (i) as commercial agents and (ii) as principals?

- ☐ Negative effect
- ☐ Neutral
- ☒ Positive effect
- ☐ Don't know

Can you describe the effects, if any?

Please see the answers given above.

Do you know about any existing studies in this context?

As far as we know, a study on commercial agents was conducted by the European Distribution Lawyers Network.

At overall market level, does the benefits of the Directive outweigh its costs?

- ☐ Costs much higher
- ☐ Costs slightly higher
- ☐ Neutral
- ☐ Benefits slightly higher
- ☒ Benefits much higher
- ☐ Don't know

Please explain:

The Directive helps to unify legal situations and it provides legal certainty (for both commercial agents and principals) at European level.

## 2.2 Views on the future of the Directive

Is the Directive still fit for purpose in meeting its objectives?

Please rate the Directive on a scale from 1 (not at all fit for purpose) to 10 (perfectly fit for purpose).

	1 (not at all fit for purpose)	2	3	4	5	6	7	8	9	10 (perfectly fit for purpose)
Please rate the Directive	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

Please explain:

The Commercial Agents Directive (still) regulates some key issues regarding commercial representation and it facilitates commercial representation across borders as well. Furthermore, depending on the EU-member state, this Directive may also be relevant for dealers.

What is the added value of EU legislation in this field?

EU legislation provides legal certainty at European level and it prevents different legal systems that may affect domestic, cross-border intra-EU and cross-border outside EU relationships.

What would be the effects if the Directive were to be withdrawn and Member States were free to adjust their national regulatory frameworks?

Probably, this may result in different legal systems with different levels of -for example- protection. Using commercial agents (specially in cross-border relationships) may become more difficult, due to different legal systems.

## 2.3 Information on the market of commercial representation (if available)

### *Individual commercial agents*

What is the size of your undertaking in terms of staff?

N/A

Are you primarily active in business-to-business (B2B) or business-to-consumer (B2C) transactions?

N/A

How many of your activities take place across borders (approx. share of domestic / cross-border intra-EU / cross-border outside EU relationships)?

N/A

### *Commercial agents or their representatives (associations / federations)*

How has the overall market of commercial agents affected by the Directive developed, in particular in terms of number of undertakings and overall turnover?

No specific data available.

In your opinion to what extent has the Commercial Agent Directive affected these developments?

**No specific data available.**

What is the typical size of the commercial agents' undertakings in your country (approx. share of stand-alone / SMEs / large enterprises in the total commercial agent population)?

**No specific data available.**

Are commercial agents typically involved in B2B or B2C transactions (approx. share of overall turnover with businesses / consumers in the total turnover of commercial agents)?

**No specific data available.**

To which degree does commercial representation take place across borders (approx. share of domestic / cross-border intra-EU / cross-border outside EU relationships in the total turnover of commercial agents)?

**No specific data available.**

### *Individual principals*

What is the size of your undertaking in terms of staff?

**N/A**

In which economic sector are you active and using the services of commercial agents?

**N/A**

Are you using services of commercial agents across borders (approx. share of domestic / cross-border intra-EU / cross-border outside EU relationships)?

N/A

What are the main reasons for you to use the services of commercial agents?

N/A

*Principals or their representatives (associations / federations)*

What is the typical size of the undertakings (principals) using the services of commercial agents in your country (approx. share of SMEs / large enterprises in the total population of principals using commercial representation)?

Unknown.

Which are the main economic sectors that rely on services of commercial agents?

As far as we know: Automotive (car dealers, fuel distributors, rental companies), cosmetics, insurance, etc.

To which degree are commercial representation services used across borders (approx. share of domestic / cross-border intra-EU / cross-border outside EU relationships in the total turnover of principals using commercial representation)?

Commercial representation services are used across borders (both intra-EU and outside EU), but we have no specific data available regarding the (approx.) share of commercial representation services in the total turnover of principals.




What are the main reasons for principals to use the services of commercial agents?

In practice, it could be considered a relatively low-cost distribution method, giving principals direct access to customers.

### 3. Before submitting your contribution

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Please note that contributions received are generally intended for publication on the Commission's website ([see specific privacy statement](#)  [de](#) [en](#) [fr](#)).

#### Contact

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