

# Public consultation on the Evaluation of the Commercial Agents Directive

Fields marked with \* are mandatory.

## Introduction

---

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

---

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:\*

**English lawyer who undertakes a lot of work in this area. Author of Commercial Agency Agreements UK textbook on the topic.**

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

**Ms E. Susan Singleton, Singletons, Solicitors**

Please indicate your contact details\*

**Singletons, The Ridge, South View Road Pinner HA53YD UK**

Please indicate your email address\*

**susan@singlelaw.com**

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

---

### 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:

**Local laws still vary. Some countries also protect services agents. The directive is minimum harmonisation not maximum**

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

(i) Agents - without them in the UK there would be no compensation at all. Huge change to common law in 1994. (This is not the case in many other EU states which already protected agents. However has meant some companies not taking on agents because of compensation risk.  
(ii) In the UK principals gain nothing from the regulations and lose thousands of pounds.

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?

For agents huge benefit unless it leads to fewer agencies offered.  
For SMA principals it can become far too risky to take on agents due to risk of having to compensate them.

Do you know about any existing studies in this context?

Might be worth asking (1) the British Furniture Manufacturers' Association and also (2) the Manufacturers and Agents Association (UK) which is part of an wider agency group in the EU in case they have statistics. I work with both bodies as a lawyer.

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:

## 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 checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain:

In the UK and other countries the main issue is not knowing

1. whether a breach of contract is sufficient to remove entitlement to a pay off
2. what the amount of the pay off should be. The law is a total mess with cases like Lonsdale saying a valuer should be engaged but that is far too expensive for most agents and no resale of agencies markets to compare to work out the compensation amount.

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

It gave compensation to agents for the first time in 1994 in the UK - a common law country without such protection. It was a huge benefit to agents (except to the extent it resulted in fewer agencies offered - if indeed that were so).

It is not beneficial to principals.

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

IF the UK abolished the regulations then the law would revert to the 1993 and earlier position in the UK and be consistent with US and other common law countries - the parties would negotiate their terms without interference by legislation. In practice that would mean most agents would not be paid compensation if they had been given their proper notice period.

## 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?

I have advised hundreds of agents and principals but I am sole practitioner niche law practice in the UK - 1 person.

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

B2B

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

Very many of the clients I advise are across the world. I have advised on agencies in most EU states where the law of the contract is English as well as much further abroad from Saudi to the US.  
As a lawyer I do not have a market share in regards to appointment of agencies of course.

### *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?

Difficult to know. The trade associations like MMA might help - <http://www.themaa.co.uk/>

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

Without the directive agents would not receive compensation.

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)?

Most agents I have represented are one person, sometimes a limited company, occasionally 3 people.  
I was however involved in some energy sector commercial agency litigation where the agents were fairly substantial limited companies (the cases settled without a court hearing)

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)?

Every agent I have known sells to businesses even if just small shops.  
B2C is not likely to be relevant.

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)?

Loads of cross border. Agency and distribution agreements are one of the main ways companies expand across borders if they do not instead choose internet selling.

### *Individual principals*

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

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

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

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

### *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)?

I act for principals as well as agents , about half and half.  
The companies are often very large indeed, leading UK public companies  
although sometimes smaller. Sometimes they are agents who appoint sub  
agents and are principal to the agents below them.

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

I can only mention sectors I have advised:  
furniture  
children's toys and games  
car parts  
wind farms

There will be many others but these are just some of those which came  
immediately to mind.



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)?


It is very common. If you cannot afford to send staff abroad and cannot internet sell then a local agent is one of the best ways which costs you nothing (if not paying a retainer) to get market penetration abroad.

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

Costs nothing. Only pay if the agent makes a sale.  
Keep control – you can set the price. With distributors who buy and resell the distributor must be free under Art 101 TFEU to resell at any price they choose. Agency gives more control.  
Some countries in the Middle East require a local agent or distributor before they allow sales.

### 3. Before submitting your contribution

---

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