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

Is your organisation included in the Transparency Register? (If your organisation is not registered, we invite you to register here, although it is not compulsory to be registered to reply to the consultation)*

Citizens have a right to expect that European institutions' interaction with citizens' associations, NGOs, businesses, trade and professional organisations, trade unions, think tanks, etc. is transparent and takes place in compliance with the law as well as in due respect of ethical principles, avoiding undue pressure, illegitimate or privileged access to information or to decision makers. The Transparency Register exists to provide citizens with direct and single access to information about who is engaged in activities aiming at influencing the EU decision-making process, which interests are being pursued and what level of resources are invested in these activities. Please help us enhancing transparency by registering!

- ◉ Yes
- ○ No

If so, please indicate your Register ID number:*

99346002337-55

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

Patricia Matton

Please indicate your contact details*

patricia.matton@hp.com

Please indicate your email address*

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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
- [x] 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:

It helps yet the lack of full harmonization remains a burden.

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

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?

Legal certainty

Do you know about any existing studies in this context?

No

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:

Legal certainty

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	○	○	○	○	○	○	◉	○	○	○

Please explain:

We regret that local laws impose additional burdens and ask termination+indemnification provisions to be relaxed. Also, they should be more consistently applied across the EEA (same terms about compensation are interpreted differently in each Member State). Further, in our view a distinction should be made between self-employed individual agents (or small companies) and larger companies that are acting as agents, which are in non-comparable situation (in fact, sometimes it is the principal that needs to be protected against a powerful agent, or agent and principal are equal players). In terms of indemnification, the clientele indemnity should be reduced in this time period of fast moving (less loyal) customers as it creates an artificial gain for the agent that often does not match with the reality.

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

Harmonization, legal certainty and predictability.

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

More discrepancy between member states, resulting in higher costs for multi-country operations.

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?

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

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

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?

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

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)?

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)?

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)?

Individual principals

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

+300000 employees

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

IT

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

Not regularly

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)?

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

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)?

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

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).

Contact

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