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### Fact Sheet Distribution – England (September 2012)

How is a distributor defined under national law?	No legal definition in law but can be described as: “A wholesaler (individual or corporate) who buys products or services in larger quantities from a supplier and then markets them on its own account to retailers or other wholesalers at a higher price.”
How does the definition of a distributor differ from that of a commercial agent?	The term “distributor” is not defined in law. The main differences are based on who the contracting party is and how remuneration is paid. Thus, an agent negotiates on the principal’s behalf and is typically paid a commission calculated by reference to the purchase sum by the principal. In contrast, a distributor buys goods on its own account from the supplier and resells them at a higher price to customers. The distributor’s pay is the resulting profit.
Are there any specific legislation governing the relationship between a manufacturer and distributor?	There is no legislation specifically directed at distributorships except in the field of competition law (as regards so-called vertical restraints, etc.). General principles of contract law will apply in the drafting of a distribution agreement and the said competition law principles must also be considered.
How is the duration of a contract normally defined?	There is no “usual” term for a distribution agreement. Under common law a distribution agreement can be for an indefinite period, and if no other notice period is specified, such an agreement will be terminable on the giving of reasonable notice by either side. What is reasonable depends on the facts of the case (see below).
How long is the notice of termination?	A reasonable notice period is typically between six and nine months depending on all the facts of the relationship, including the length of relationship between the parties, any lack of formal arrangement between the parties, the extent of any early investment, the percentage of turnover and whether the distributor will be subject to any post termination restrictions.
What rights does the distributor have to compensation or indemnity upon termination?	The distributor will have the benefit of any notice period as agreed or implied by law (see above).  Unless it has been expressly agreed in the contract, English common law and statute do not provide for a distributor to be additionally compensated by reason of such termination.  On a wrongful termination, damages may be payable for breach of contract. English law will only compensate actual damage in such cases and does not apply any concept of punitive damages in the regard.



<p>Are there any laws or regulations relating to restraint of trade/restrictive covenants</p>	<p>There is no English legislation specifically directed at distributorships except in relation to competition issues.</p> <p>Restraint of trade/restrictive covenant provisions may be governed by the common law doctrine of restraint of trade and are prima facie void, but may be justified if they protect the supplier's legitimate business interest and are reasonable in scope, duration and geographical reach and must further not be contrary to the public interest.</p>
<p>Are any particular formalities required for a distribution agreement to be legally valid and enforceable under national law?</p>	<p>There are no formal requirements specific to distributorship agreements. So they can be written or verbal or a combination of the two. General principles of contract law apply however and a written contract is advisable for many practical reasons.</p>

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