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Fact Sheet Distribution - Germany – December 2012

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| How is a distributor defined under national law? | There is no legal definition in German law. But you can define a distributor as a person or company, who buys goods and resells them for profit. He/It places a product on the market without being a manufacturer. |
| How does the definition of a distributor differ from that of a commercial agent? | A commercial agent is a self-employed person, who conducts a trade and constantly arranges commercial operations for other businessmen -or on their behalf- (para 84 I 1 HGB /German Commercial Code). The commercial agent is entitled to commission payments. The distributor concludes agreements in his own name and on his own account. |
| Is there any specific legislation governing the relationship between a manufacturer and distributor? | There are some specific legal rules governing the relationship between a manufacturer and a distributor (para 478, 479 BGB-German Civil Code).The paragraphs regulate the legal consequences between the manufacturer and the distributor, when the distributor has received the defective goods from the customer. Details of the cooperation can be regulated in individual contracts as well. |
| How is the duration of a contract normally defined? | The duration of a contract depends on the individual case. The right of termination by the parties and the reasons for it are specified in the contracts. |
| How long is the notice of termination? | There are no specific regulations in German law. The parties often agree on a notice period of 3 months. The notice period may also depend on the length of the contractual relationship. In addition, the parties always have an extraordinary right of dismissal, if an important reason exists. The important reason can be defined in the contractual provisions. |
| What rights does the distributor have to compensation or indemnity upon termination? | In the event of unjustified termination the distributor is entitled to claim an indemnity. An entitlement of compensation or indemnity can be regulated by the parties as well. |
| Are there any laws or regulations relating to restraint of trade/restrictive covenants | There are no regulations or laws relating to restraint of trade/restrictive covenants. But the regulations of competition law should be checked in each individual case. For certain products (for example: medications) there are specific rules of trading and selling. |
| Are any particular formalities required for a distribution agreement to be legally valid and enforceable under national law? | None. But it is best to conclude the contract in writing. |

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