

EU Directive for Self Employed Sales Agents – The ol' dog still has its teeth!



An Update.

As reported in earlier issues of the Agentsnews, starting with a detailed report in the Spring Issue 2014 (645), the Commercial Agents Directive 86/653/EEC, which was adopted on 18 December 1986 & has remained unaltered since then, has been subject to intense scrutiny by the EU Commission's "Regulatory Fitness and Performance (REFIT)" initiative. It's Brief- "to assess whether the Directive remains fit-for-purpose in terms of effectiveness, efficiency, relevance, consistency and EU added value."

From the original Directive; the Statutory Instrument 1993 number 3053 was created in relation to England & Wales and came into force on 1 January 1994. For Ireland; the Regulations came into force on 21 February 1994. Since then Commercial Sales Agents have used this Directive & subsequent Legislation in an effort to gain a level playing field in their relationships with Principals.

The MA have recognised that this has been THE most important piece of legislation for the Commercial Agent. Many battles have been fought and many cases won with the sterling support of our dedicated legal team. Matters such as Contracts, Rights & Obligations, Operational issues, Duties, Commission Payments, Termination, Notice Periods, Compensation / Indemnity, Pipeline Commissions, etc., have all been dealt with for our members with reference to this legislation. The Directive has also been a valuable aid to help our members with an Exit Strategy as they approach Retirement.

In response to the REFIT Initiative, we at the MA have worked tirelessly on your behalf alongside our colleagues within IUCAB to provide detailed information, analysis & arguments via Euro commerce for the maintenance of the Directive. Our special thanks to Eckhard Döpfer, Co-Director General National Federation of German Commercial Agencies and Distribution (CDH) & Walter Kramer, Chairman of the State Committee Vienna of Commercial Agents in the Vienna Chamber of Commerce (WKÖ) for their leadership on this venture.

Following these submissions a Public Consultation on the Evaluation of the Commercial Agents Directive (86/653/EEC) was established from 25 July 2014 to 31 October 2014. You will no doubt recall the numerous emails & messages encouraging all MA members to participate in this Consultation via the On-Line Questionnaire on the EU Web Site. The consultation questionnaire included questions about:

- the impact of the Directive since its entering into force, in

IUCAB 2015 CONGRESS

The Congress will be held in Warsaw, Poland on 14th & 15th May 2015 & you are welcome to attend!

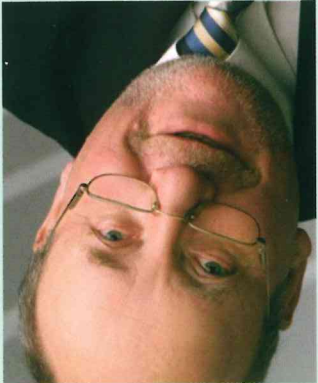
It will be a very important tool for the communication and advertisement for Commercial Agents and Manufacturers both within Poland & further afield. This is an unique attractive opportunity to contact a very large number of people & enjoy the buzz of an international convention dedicated to Agents & their Principals. Besides the normal group, & delegates meetings there is planned a B2B Meeting – for Principals & Agent to meet & build relationships.

The Conference speakers will include:-
 Anne Applebäum, Journalist for the Washington Post and State.
 Olga Szejnert-Rozsak, Lawyer specialising in Trades & Customs delivering a speech on Polish Commercial Agency Law.
 Nathalie Lorrain, Associate Director Itineraires Interculturels, delivering a keynote speech on the intercultural issues with an international business relationship.

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Eckhard Doepfer



Walter Kramer

particular regarding its significance for SMEs and cross-border activities,
 • the relevant market of commercial agents and principals
 • Stakeholder views on the future of the Directive regarding the potential for simplification and the reduction of regulatory costs and burdens.

This is the first general evaluation of the Directive since its implementation & the outcome will have a huge impact on its form & at the very worst- its possible repeal!

The public consultation was closed on 31 October 2014. Over 276 contributions were received to this consultation. Not all the completed questionnaires are available on-line for public scrutiny. The public detail can be seen via this link: http://ec.europa.eu/internal_market/consultations/2014/commercial-agents-directive/contributions_en.htm.

The majority of responses of the consultation were in favour of the Directive to be maintained. From the UK & Ireland the Commission received some negative replies; however, they did not come from representative organisations or from the Government. In fact the UK Government, its politicians & civil service departments such as BIS were particularly nonchalant- despite our best efforts to involve them!

The next stage in the process will be a formal Report from the EU Commission in June 2015. We will keep you posted. Finally, it is interesting to note that in the research, it was established that over 600 000 B2B commercial agents in Europe. Together they generated over 3% of the "EU 28" retail turnover and wholesale trade. Not an insignificant contribution by the Commercial Agents like you & me!!
 Watch this space!