

SCHOUPS

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25/09/2019 Dave Mertens gave a workshop about the key aspects of international distributorship agreements

On Wednesday, September 25, our Business law practice group organized a free Workshop.

A distributorship arrangement can be a win-win and a mutually beneficial way for companies to expand their portfolio with new products and gain access to new markets and territories.

As the stakes are high, a written contract is more than recommended to streamline the cooperation, avoid conflicting views, secure investments and prepare for continuously changing (market) circumstances. Various options are possible to make the contract meet parties' requirements for a long term cooperation. One size definitely does not fit all. It is equally important to learn which options are not legally enforceable (e.g. in view of European competition law or the Belgian Sole Distributorship Act).

In this workshop Dave Mertens and our guest speaker (see below) discussed the key items parties must consider before entering into any distributorship agreement, such as:

- (mandatory) pre-contractual information in Belgium and abroad
- full written agreement or not?
- specific products or flexible product range?
- (non-)exclusivity?
- purchase and resell prices
- payment terms & delivery
- product liability & recall
- IP & knowhow
- duration & (effects of) termination
- non-compete
- jurisdiction & applicable law
- ...

For each item they discussed the main options, present model clauses and explain which rules apply if parties fail to insert a specific clause or simply embark on a cooperation without a written agreement.

Our guest speaker (Mr. Frank Mooijaart) shared from his experiences in negotiating distributorship agreements in an international environment. Quite apart from what is the ideal position from a legal point of view, any party needs to determine its priorities and consider what is commercially feasible. This will depend on the territory, products and circumstances. Frank Mooijaart is managing partner at CoolActivators. He has an impressive track record in Sales & Marketing, including the development of new markets and sourcing of new distributors for innovating products across the globe.

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