

Concession agreements

**Negotiation of concession
contracts: the department
store's perspective**

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Concession agreement

- Exclusive use of certain amount of sqm
- Within a department store
- By a brand
- For the sale of certain defined products of that specific brand
- With its own staff
- Against a fee/sqm or a % of turnover

= Lease agreement

- According to Dutch law a concession agreement ticks the boxes of lease of a business space
- Concession agreement is therefore qualified as a lease agreement
- Governed by (semi) mandatory law, Title 7.4 of the Dutch Civil Code

Application to the Courts

- certain conditions, like alteration concession area, increasing concession fee and term of the agreement deviate from semi-mandatory Dutch lease law
- de Bijenkorf therefore only enters into concession agreements under the suspensory condition that a joint court application (with respect to these deviated conditions) is filed and approved by the competent sub district court pursuant to Article 7:291, paragraph 2 of the Dutch Civil Code

Brand benefits from

- department store's prestigious reputation
- international approach
- facilities such as VAT-lounge, restaurants, treatment rooms and hotel deliveries & shipping
- events & marketing department store and other brands present

Needs for department store

Flexibility regarding:

- location, number of doors (including online) and sqm of concession area
- term & termination
- product categories
- Fees
- events

Brand should take responsibility for

- Staff
- Liability for damage to concession area
- Operating the area in an excellent manner
- Furnishing & maintenance of area
- Advertising
- Loss

Discussion brand/department store

- Liability for damage concession area
- Loss
- Furnishing & maintenance
- Modification concession area
- Charges
- Collecting customer data
- Use of branded shopping bags

Other jurisdictions

- **Canada:**

- No tenancy clause
- Language clause
- Worker's Compensation insurance

- **UK:**

- Protecting a Concession Partner's Financial Investment
- Shopfit agreement
- Data protection
- Health & Safety/Product Safety

- **Ireland:**

- Indemnity
- Limit of liability
- TUPE
- Employment
- Data Protection