



International Distribution Institute

Termination Payments for Agents in the UK

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17.— Entitlement of commercial agent to indemnity or compensation on termination of agency contract

(1) This regulation has effect for the purpose of ensuring that the commercial agent is, after termination of the agency contract, indemnified ... or compensated for damage ...

(2) Except where the agency contract otherwise provides, the commercial agent shall be entitled to be compensated rather than indemnified.



“Consistent with the purpose of achieving harmony between member states, it is in my judgment permissible to look into the law and practice of the country in which the relevant right, in this case the right to indemnity, originated, namely the Federal Republic of Germany; and to do so for the purpose of construing the English regulations and to use them as a guide to their application.”

Moore v Piretta 1998



<i>Moore v Piretta 1998 – Calculation of Indemnity</i>	£
Value of the business brought in by the agent in the two and three-quarter years since agency was terminated	113,000.00
<u>Less</u> – Existing customer base at start of agency (approx 5%)	5,000.00
<u>Less</u> – Variable expenses (approx 8%)	8,000.00
<u>Less</u> – Acceleration of payment (approx 8%)	8,000.00
<u>Total</u>	92,000.00
Cap (Reg 17(4))	64,526.33
Indemnity payable to agent	64,526.33



“... the French practice is of no evidential value whatever ... Where French and English courts differ is in the method by which that damage is calculated. But the Court of Justice has made it clear that the method of calculation is a matter for each member state to decide.”

Lonsdale v Howard & Hallam 2007



- The damage suffered by the agent on termination of the agency relationship was the loss of the value of the future income stream that the agency would have generated.
- Amount a hypothetical purchaser might reasonably have been willing to pay for the agency as at the date of termination, assuming the agency would have continued
- Non-compete to be taken into account



- Future earnings should be discounted by an appropriate rate of interest
- Account should be taken of whether the market in the products in which the agent dealt was expanding or declining.
- Value reduced to take into account expenses and work done by the agent, apportioned if more than one agency.



“14.4. Upon termination of the Agreement the Agent shall not be entitled to compensation but shall be entitled (subject to clause 14.5) to be indemnified ...

14.5. The Agent will not be entitled to the indemnity referred to in clause 14.4 but will be entitled to compensation for the damage it suffers as a result of the termination of its relations with the [Principal] if the amount of such compensation would be less than the amount payable by way of indemnity.”

Shearman v Hunter Boot 2014