



International Distribution Institute

The new Italian “Accordo Economico Collettivo “ 2014

The calculation of the Agent’s
goodwill indemnity



The goodwill indemnity according to art. 1751 of Italian Civil Code

„At contract termination, the principal shall pay the agent an indemnity if the following conditions are met:

-the agent has brought new costumers or has considerably increased business with the existing costumers and the principal continues to derive substantial benefits from the business with such costumers

-The payment of such indemnity is equitable having regard to all the circumstances and in particular the commission lost by the agent on the business with such costumers

The amount of indemnity cannot exceed a sum equal to a yearly indemnity calculated on the average of the commissions earned in the last five years and, if the contract goes back less than five years the indemnity shall be calculated on the average of the period in question

The parties cannot derogate from this article to the detriment of the agent”



The alternative of the Economic Collective Agreements

Calculation based on a percentage of the commission earned by the agent during the contract.

- A. Indemnity for contract termination (FIRR – paid year by year by the principal to Enasarco)
- B. Indemnity s.c. “Suppletiva”
- C. Meritocratic Indemnity



EU Court of Justice, March 23, 2006, C-456/04
Honyvem c. De Zotti

The Goodwill indemnity resulting from the application of article 17, n.2, cannot be replaced by an indemnity, determined in accordance with criteria other than those prescribed by article 17 of the European directive, unless it establishes that the application of such an agreement guarantees the commercial agent, in any case an indemnity equal to or greater than that which results from the application of Article 17.



The calculation of the Goodwill Indemnity according to art. 1751 c.c.

The *praxis* of Italian judges

From 2006 - 2010

Trib. Milano, 26 settembre 2006, Silli Francesco/Antonini S.p.A.	60%
Trib. Bolzano, 20 aprile 2006, F. F. / Nesko srl	100%
App. Roma, 24 maggio 2006, M snc/C S.p.A.	33%
Trib. Rimini, 21 agosto 2006, Tomati Fabio/3M Italia S.p.A.	52%
Trib. Bari, 20 gennaio 2007, I. F. / C. srl.	66%
Trib. Vicenza, 25 gennaio 2007, GM / Banca Mediolanum	80%
App. Milano, 09 febbraio 2007, Med Elettromedicali / Siemens	100%
Trib. Bologna, 14 agosto 2007, Roux/Dado Ceramica	100%
App. Bologna, 25 agosto 2007, Farmaceutici dr. XX S.p.A./YY	55%
Trib. Grosseto, 23 ottobre 2007	28%
Trib. Torino, 30 giugno 2008, Edilsoluzioni/Buzzi	0
Trib. Treviso, 29 maggio 2008	80%
Trib. Torino, 27 marzo 2009	100%
App. Firenze 23 aprile 2009	70%
App. Salerno, 29 aprile 2009	100%
Trib. Roma, 29 ottobre 2009	66,6%
Trib. Roma, 9 novembre 2009	50%
Trib. Como 18 gennaio 2010	0
Trib. Roma 16 giugno 2010	0
Cass. 23 giugno 2010	60%



The calculation of the Goodwill Indemnity according to art. 1751 c.c.

The *praxis* of Italian judges

From 2011 - 2014

Trib. Milano 09 luglio 2011	13%
Trib. Bologna 14 febbraio 2012	46%
Trib. Bologna 6 marzo 2013	100%
Cass. 27 marzo 2013	100%
Trib. Milano 30 luglio 2013	0
Trib. Milano 31 luglio 2013	0
Trib. Milano 17 settembre 2013	0
Trib. Bari 22 ottobre 2013	0
Trib. Bologna 23 ottobre 2013	0
Trib. Roma 26 ottobre 2013	50%
Trib. Bari 11 novembre 2013	0
Trib. Milano 18 novembre 2013	0
Trib. Reggio Emilia 11 febbraio 2014	51%
Trib. Padova 14 febbraio 2014	50%
Trib. Monza 19 febbraio 2014	69,8%



The calculation of the Goodwill Indemnity according to the new *Accordo Economico Collettivo* 2014

- The meritocratic indemnity: differences with the AEC 2002;
- Difference between the initial commissions and the final commissions;
- The prognostic period;
- The migration rate;
- The predetermined rate deduction (10%, 15%, 20%);
- The deduction of the other two indemnities (FIRR and “indennità suppletiva”);
- Comparison with the maximum amount according to 1751 c.c.



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The application of the Accordo Economico Collettivo 2014

- Foreign agents
- Entry into force and application
- Contracts already in force on January 1st, 2014



Comparison of the different methods of calculation 1751 c.c.– AEC 2002 – AEC 2014

Is the new system of calculation compatible with the EU Directive?

Is it convenient for the principal to apply the AEC 2014?



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Thank you for your attention!

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