



International Distribution Institute

# IDI CONFERENCE 2024

Prague 14-15 June 2024

## DRAFTING AND MANAGING INTERNATIONAL SALE CONTRACTS WITHIN DISTRIBUTION NETWORKS



Distribution agreements with resellers (franchisees, exclusive and selective distributors) normally imply a continuous flow of products from the supplier to the distributor, governed by specific sale contracts (normally in the form of general conditions applicable to all transactions between the parties). These general conditions are based on the text normally used by the supplier with his purchasers, but their inclusion within the framework of a long-term supply contract necessarily implies a number of adaptations in view of the special relationship between the parties.

This need for adaptation is not always recognized by business, and it happens frequently that suppliers of distribution networks underestimate this issue and focus exclusively on the long-term distribution relationship.

The purpose of the plenary session of the 2024 IDI Conference is to analyse and discuss the main issues arising from the need to coordinate the conditions of sale with the framework agreement, as well as the typical situations that give rise to disputes in the context of the seller-buyer relationship. In this context, a special attention will be given to the 1980 Vienna Convention on the International Sales of Goods (CISG) and to domestic laws frequently referred to in cross-border relationship, like English and Swiss law.

The three workshops of Saturday will deal respectively with: (i) mandatory and/or recommended suppliers in franchise agreements: a crucial aspect, which sometimes gives rise to disputes between the parties (First Workshop); (ii) ESG in distribution networks: compliance and antitrust issues (Second Workshop); and (iii) sharing and ownership of customers' data within distribution and franchising networks: contractual solutions and possible related claims (Third Workshop)

| <b>MORNING SESSION</b> |  |
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| <b>CHAIR</b>           | <b>Fabio Bortolotti</b> , Buffa Bortolotti & Mathis, Turin; Chair IDI  |
| 08:30-09:00            | <b>Registration</b>  |
| 09:00-09:40            | <p><b>Welcome and 20 years' IDI Celebration</b></p> <p><b>Fabio Bortolotti</b>, Buffa Bortolotti &amp; Mathis, Turin; Chair IDI, IDI country expert for Italy</p> <p><b>Silvia Bortolotti</b>, Buffa Bortolotti &amp; Mathis, Turin; Vice-Chair and Secretary General IDI, IDI country expert for Italy</p>  |
| 09:40-09:50            | <p><b>The basic issue: identifying the law governing the sale contract?</b></p> <p>According to the traditional approach suppliers use to impose general conditions of sale governed by their own domestic law. This solution may not satisfy the purchaser and may be difficult to manage if the dispute is brought before a court other than the supplier's one.</p> <p>Parties might envisage a more neutral solution which could be applied uniformly in all countries covered by the distribution network, like choosing a domestic law which is traditionally considered, rightly or wrongly, to be neutral and reasonably fair, or submitting the sale contract to the Convention on the International Sale of Goods (CISG) which is in force in great part of the world (e.g. USA, China, European countries, except Great Britain).</p> <p>The application of the CISG (which is automatic between companies belonging to contracting States) is refused by a great number of in-house counsels, a choice that is not always well-founded. During this conference we will try to analyze in practical terms the pros and cons of the CISG, as well as of other possible neutral alternatives, like in particular English and/or Swiss law.</p> <p>Our purpose is to avoid an all-out defense of the CISG, but to discuss without prejudice, this and other possible solutions, with respect to the most common issues arising in the actual context of international sales.</p> <p><b>Fabio Bortolotti</b>, Buffa Bortolotti &amp; Mathis, Turin; Chair IDI, IDI country expert for Italy</p> |
| 09:50-10:10            | <p><b>The 1980 Vienna Sales Convention (CISG) in general, mainly considering the position of the seller.</b></p> <p>Main characteristics:</p> <ul style="list-style-type: none"> <li>• Specifically intended for international trade.</li> <li>• Fairly balanced rules which can in any case be derogated by the parties.</li> <li>• Use of flexible terms (reasonableness, etc.) which are becoming more precise through case law.</li> <li>• A more modern approach to some basic issues of sales law.</li> <li>• The growing importance of case law brought before the courts of the signatory States.</li> </ul> <p><b>Burghard Piltz</b>, Piltz Legal, Piltz Rechtsanwälte PartGmbB, Berlin</p>   |
| 10:10-10:40            | <p><b>DISCUSSION PANEL 1. Sales contract concluded through incorporation of standard terms.</b></p> <p>Parties often conclude international sale agreements through an exchange of messages/emails which refer to their respective conditions of sale/purchase. In most cases, they don't have any idea of the rules that apply to their contract as a consequence of that exchange: e.g. sale or purchase conditions; CISG; domestic law of any of the parties; etc.</p> <p>When a dispute arises, the crucial issue is to ascertain which conditions (if any) have become part of their agreement, and whether CISG or any domestic law applies. This implies an evaluation of the so-called "battle of the forms" (last shot rule, knock-out doctrine, etc.).</p> <p>At the same time, in that situation it will be urgent and essential to establish the place of jurisdiction (or arbitration) for the relevant dispute: this aspect will require an evaluation of the validity and effectiveness of possible jurisdiction/arbitration clauses included in the standard terms of each party (to be evaluated under the CISG? Under domestic law? Under further conventions or supra-national – e.g. EU - rules?), in order to decide the best strategy for the dispute.</p> <p>The panelists will analyze all the above-mentioned aspects with a practical approach.</p>  |

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|             | <p><b>CHAIR: Silvia Bortolotti</b>, Buffa Bortolotti &amp; Mathis, Turin; Vice-Chair and Secretary General IDI, IDI country expert for Italy</p> <p><b>Wolfgang Nockelmann</b>, Nockelmann Rechtsanwälte Partnerschaft mbB, Dortmund</p> <p><b>Ulrich Schroeter</b>, University of Basel, Basel</p> <p><b>Heidi Yildiz</b>, 36 Stones, London</p>   |
| 10:40-10:50 | <b>Discussion</b>   |
| 10:50-11:20 | <b>Coffee break</b>   |
| 11:20-11:50 | <p><b>DISCUSSION PANEL 2. How can the seller defend against claims for defects (non-conformity) invoked by the buyer, without needing to discuss about their actual existence?</b></p> <p>One of the most common critical issues that a seller needs to manage is the one that arises when a buyer invokes defects of the goods and refuses to pay them (and/or threatens to claim damages). Assessing the nature and extent of the defects invoked and the respective responsibility for their occurrence is a complicated and time-consuming matter, especially if the defect appears after a certain time. Sellers tend therefore to develop strategies which can exclude their liability without needing to assess the actual existence of the defect, such as, for instance:</p> <ul style="list-style-type: none"> <li>• invoking that the complaint is ineffective because it does not specify the nature of the defect (art. 39(1) CISG);</li> <li>• invoking that the buyer did not notify the complaint within a reasonable time after he has or should have discovered the defect (art. 39(1) CISG);</li> <li>• invoking that the complaint has been made after two years from delivery (art. article 39(2) CISG);</li> <li>• providing shorter time limits for complaints in the seller's general conditions of sale;</li> <li>• The members of the panel will comment a number of cases decided under the CISG and compare them with their domestic law on sales.</li> </ul> <p><b>CHAIR: Yeşim Atamer</b>, University of Zurich</p> <p><b>Alessia Attisani</b>, Iveco Group, Torino</p> <p><b>Oscar Tiberg</b>, Chouette advokatbyrå, Stockholm</p> <p><b>Kentaro Tanaka</b>, TMI Associates, Tokyo; IDI country expert for Japan</p> |
| 11:50-12:00 | Discussion  |
| 12:00-12:30 | <p><b>DISCUSSION PANEL 3. Limiting the amount of seller's liability for damages arising from the sales contract.</b></p> <p>Laws governing sales do not in principle limit the possible amount of damages arising from defective goods that may be claimed by the buyer.</p> <p>The only limit contained in the CISG is that damages may not exceed « ... the loss which the party in breach foresaw or ought to have foreseen at the time of conclusion of the contract, in the light of the facts and matters of which he then knew or ought to have known, as a possible consequence of the breach of contract (art. 74) ». Furthermore, the CISG provides an obligation to mitigate damages (Art. 77).</p> <p>Especially in cases where a defect can cause damages which are disproportionate with respect to the value of the goods supplied, sellers should, whenever possible, agree on a "ceiling" of damages that may be awarded, and exclude or limit claims for the so called "consequential damages".</p> <p>The panel will examine various alternative clauses limiting liability for damages (including liquidated damages clauses), also in the light of the principle that the liability cannot be excluded in case of fraud or gross negligence.</p> <p><b>CHAIR: Ulrich Schroeter</b>, University of Basel, Basel</p> <p><b>Sabrina Costanzo</b>, Campari Group, Milan</p> <p><b>Pierre Robert Fojou</b>, Fojou IP &amp; Business Law Firm, Yaoundé, IDI country expert for distribution in Cameroon</p> <p><b>Marion Lingot</b>, Fiducial Legal by Lamy, Lyon</p>  |
| 12:30-13:00 | <b>Discussion</b>   |
| 13:00-14:30 | <b>Lunch</b>  |

| <b>AFTERNOON SESSION</b> |   |
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| <b>CHAIR</b>             | <b>Fabio Bortolotti</b> , Buffa Bortolotti & Mathis, Turin; Chair IDI   |
| 14:30-15:00              | <p><b>DISCUSSION PANEL 4. When is the buyer entitled to terminate the contract of sale for non-compliance by the seller? How can the seller avoid termination by remedying the defect?</b></p> <p>In the presence of defects of substantial importance, the buyer may decide to terminate the sale contract and return the goods, while the seller would prefer, where possible, to replace or repair them. Domestic laws on sales and the CISG have different approaches to this issue.</p> <p>Under the CISG this is an issue for Art. 25 (fundamental breach), i.e. a breach of contract committed by one of the parties which results in such detriment to the other party as substantially to deprive him of what he is entitled to expect under the contract, unless the party in breach did not foresee and a reasonable person of the same kind in the same circumstances would not have foreseen such a result.</p> <p>The seller can however avoid contract termination by the buyer, by remedying the non-conformity (Art. 48).</p> <p>See also art. 11 of the ICC general conditions of sale which proposes an interesting alternative solution aiming at creating a fair balance between protection of the buyer and survival of the sale agreement.</p> <p><b>CHAIR: Charles Debattista</b>, 36 Stones, London<br/> <b>Nicole Van Crombrughe</b>, Faber Inter Legal, Brussels<br/> <b>Florian Mohs</b>, Pestalozzi, Zurich<br/> <b>Sherif El Saadani</b>, Amereller Legal Consultants, Cairo.</p>   |
| 15:00-15:10              | <b>Discussion</b>   |
| 15:10-15:40              | <p><b>DISCUSSION PANEL 5. Managing the relationship between the framework distribution agreement and the contracts of sale.</b></p> <p>A distributorship agreement is implemented through contracts of sale concluded from time to time between the parties. One of the issues to be dealt with in the distribution contract is that of coordinating these two aspects.</p> <p>This coordination is normally achieved through a set of general conditions of sale annexed to the distribution agreement. These conditions tend to differ from the conditions used for “spot sales” because they deal with a number of additional issues arising out of the long-term cooperation with the buyer as distributor and not only reseller.</p> <p>The panel will discuss the following critical issues, which frequently arise in this connection:</p> <ul style="list-style-type: none"> <li>• supplier’s discretion to accept distributor’s orders and its limits: balancing the distributor’s interest to obtain supplies and the supplier’s one to manage amount of supplies and risks;</li> <li>• managing warranty, stock of spare parts and technical assistance through the distributor;</li> <li>• more favourable payment conditions with protection of the supplier’s credit through bank guarantees or similar means.</li> </ul> <p><b>CHAIR: Petr Mrazek</b>, Associated Law office Vítek Mrázek Kramný s.r.o., Prague; IDI agency and distribution country expert for Czech Republic<br/> <b>Paolo Lovato</b>, Legal Counsel Associate Manager, Safilo S.p.A., Padova<br/> <b>Jon Yormick</b>, Yormick Law LLC, Cleveland; IDI agency country expert for USA</p> |
| 15:40-15:50              | <b>Discussion</b>   |
| 15:50-16:10              | <b>Coffee break</b>   |
| 16:10-16:40              | <p><b>DISCUSSION PANEL 6. Excluding the CISG by express or implied choice of the parties. A restrictive approach by the Courts.</b></p> <p>It happens frequently that the contracting parties, not being aware of the possible application of the CISG, make reference, in their sale contract and/or in the context of a dispute arising therefrom, to their domestic laws. It is discussed if and when this situation can imply an exclusion of the CISG in favour of domestic law on sales.</p>  |

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|             | <p>Article 6 CISG limits itself to state that «the parties may exclude the application», without giving further details. In a first time, after the entry into force of the Convention, it has been frequently sustained that the express choice of the domestic law of a contracting country, could imply the exclusion of the CISG. This position has been overcome by case law arguing that the Convention is the law of the country in question applicable to international sales. There remain nevertheless borderline situations where a reference to the domestic law can actually imply the will to exclude the CISG.</p> <p>On the other hand, parties may also choose to apply the CISG to situations to which the Sales Convention does not apply such as, for instance, agreements with non-contracting countries, domestic relations etc.).</p> <p><b>CHAIR: Fountoulakis Christiana</b>, Faculty of Law, Fribourg</p> <p><b>Ondrej Cech</b>, Zeiler Floyd Zadkovich, Vienna</p> <p><b>Morten Midtgaard Fogt</b>, Aarhus University, Aarhus</p> <p><b>Marta Zurletti</b>, Luigi Lavazza S.p.A., Turin</p>  |
| 16:40-16:50 | Discussion  |
| 16:50-17:20 | <p><b>DISCUSSION PANEL 7. Conclusive remarks on the inclusion / exclusion of the CISG</b></p> <p>The inclusion in the general conditions of sale of a clause excluding the CISG is almost always decided by the contracting parties without an actual evaluation of the pros and cons of such choice. Parties have been told that the CISG should be avoided, and follow this trend without really investigating if such exclusion is appropriate. The reason behind this choice is often a kind of intellectual laziness consisting in avoiding entering into an unknown territory, governed by unfamiliar rules coming from abroad.</p> <p>What happens when you exclude the CISG without choosing a specific domestic law?</p> <p>Excluding the CISG opens the door for Private International Law intricacies, a consequence often not taken into consideration when excluding the CISG.</p> <p>The choice of a domestic law may be a reasonable choice with respect to English law, which has represented for centuries a traditional and well-established set of rules for international trade. However, the CISG appears to be a more updated solution as shown by the experience made in the US, where a consistent case law on the CISG has been developed.</p> <p>The choice of a domestic law considered «neutral» (Swiss, Austrian, Swedish, English law) may be a solution in particular circumstances, but implies the need to get a sufficient knowledge of its contents and case law.</p> <p>We can conclude that the express exclusion of the CISG in favour of its own domestic law, when the Convention would be otherwise applicable, requires an in-depth evaluation of the pro and cons.</p> <p>Drafting and managing sale contracts under the CISG requires a good knowledge of its contents and in particular of the case law which has developed in the last years. This could be a useful investment for cross-border lawyers, who could count on uniform rules, supported by an extensive case law, instead of a variety of specific domestic laws.</p> <p><b>CHAIR: Fabio Bortolotti</b>, Buffa Bortolotti &amp; Mathis, Turin; Chair IDI, IDI country expert for Italy</p> <p><b>Charles Debattista</b>, 36 Stones, London</p> <p><b>Burghard Piltz</b>, Piltz Legal, Piltz Rechtsanwälte PartGmbH, Berlin</p> <p><b>Yeşim Atamer</b>, University of Zurich</p> |
| 17:20-17:40 | <b>Discussion</b>   |

## IDI General Meeting

**17:40 - 18:30**

At this general meeting, to which non-members are also invited, the officers of IDI will inform the members about the current situation of the Association, the results achieved in 2023 and the plans for the following years.

The participants will be kindly invited to share their views and opinions about the activity of IDI and make suggestions for the future.

**Workshop 1: Supply Agreements in Franchise Systems**

Franchise systems strive for conformity in the look and feel of all their outlets, both with respect to their physical appearance and with respect to the goods and services offered to customers. To achieve conformity franchisors often put restrictions on franchisees’ purchases - from furniture, fixtures, equipment, and signage, to computer hardware and software used in the operation of the business, to the goods and services sold by the outlets. Many of these products and services are purchased from third party suppliers and franchisors often negotiate purchase arrangements with suppliers not only for themselves, but for their entire franchise system. The supply agreements, as well as the restrictions they place on franchisees raise many issues, some of which will be explored in this workshop.

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| <b>CHAIR</b> | <b>Beata Krakus</b> , UB Greensfelder, Chicago   |
| 09:30-10:00  | <p><b>INTRODUCTORY PANEL. The commercial aspects of supplying franchisees with necessary FF&amp;E, products, and services.</b></p> <p>In-house counsel from different industries will provide an insight into some of the business reasons that drive decisions around supply arrangements for their networks of franchisees and/or company-owned stores, such as supply realizability, control, quality assurance, pricing and efficiency, and reasons for the franchisor to acquire part of the supply chain itself.</p> <p><b>CHAIR: Marco Hero</b>, Schiedermaier Rechtsanwälte, Frankfurt am Main; IDI franchising country expert for Germany</p> <p><b>Natalie van der Laan</b>, The Social Gaming Group / Oche, Amsterdam</p> <p><b>Katharina Köklü</b>, Lead European Legal Centre of Expertise, Düsseldorf</p>  |
| 10:00-10:10  | <b>Discussion</b>  |
| 10:10-10:40  | <p><b>DISCUSSION PANEL. Negotiation of master supply agreements for franchise systems and franchisor rebates and other kickbacks.</b></p> <p>When negotiating a supply agreement not just for itself, but for its franchisees, many additional questions arise, including how to structure the agreement, the franchisees’ ability to negotiate a better deal on their own, and liability for contract breaches by the franchisees. In addition, the franchisor may want to negotiate an even better deal for itself than for its franchisees and rebates, or other forms of kickbacks from the supplier. The panel will review key terms to negotiate in master supply agreements and also review potential legal restrictions on the franchisor’s right to receive rebates based on the franchisees’ purchases from the supplier.</p> <p><b>CHAIR: Beata Krakus</b>, Greensfelder Hemker &amp; Gale, Chicago</p> <p><b>Claudia Santos Cruz</b>, MLGTS Advogados, Lisbon; IDI franchising country expert for Portugal</p> <p><b>Hikmet Koyuncuoglu</b>, Koyuncuoglu &amp; Koksall Law Firm, Istanbul; IDI franchising country expert for Turkey</p> <p><b>Louise Wolf</b>, MST Lawyers, Melbourne</p> |
| 10:40-10:50  | <b>Discussion</b>  |
| 10:50-11:20  | <b>Coffee break</b>  |
| 11:20-11:50  | <p><b>DISCUSSION PANEL. Permissible restrictions on the choice of suppliers and products/services.</b></p> <p>Are there any legal restrictions on the franchisor’s right to restrict franchisees from purchasing products/services/FF&amp;E from suppliers other than those of franchisor’s choice? What are the criteria for distinguishing between designated, authorized and alternative suppliers? Are there any protocols to handle requests for alternative suppliers? Is it relevant if the price or other terms</p>  |

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|             | <p>offered by the approved supplier are significantly worse than the terms offered by other suppliers or -simply – if similar products can be purchased for less?</p> <p><b>CHAIR: Rocío Belda de Mergelina</b>, BMLex, Madrid</p> <p><b>Hector Ferreira</b>, Hughes &amp; Hughes, Montevideo; IDI agency and distribution country expert for Uruguay</p> <p><b>Ronald K. Gardner</b>, Dady &amp; Gardner, Minneapolis</p>  |
| 11:50-12:00 | <b>Discussion</b>   |
| 12:00-12:30 | <p><b>DISCUSSION PANEL. Franchisor liability and commercial risks - a case law review.</b></p> <p>This panel will analyse franchisor’s liability vis-à-vis its franchisees and their customers due to behaviour of system suppliers. Can a franchisor be held vicariously liable for the actions of a supplier or a supplier’s employees? Is there franchisor’s liability for incorrect labelling, marketing and advertising by its suppliers? What happens if the supplier goes bankrupted? Panellists will present case law from various jurisdictions.</p> <p><b>CHAIR: Anders Thylin</b>, ASTRA ADVOKATER, IDI franchising country expert for Sweden</p> <p><b>Alban Curral</b>, Carlara International, Paris</p> <p><b>Daniel Liemberger</b>, Kunz Wallentin Rechtsanwälte, Vienna; IDI franchising country expert for Austria</p> <p><b>Tiwalola Osazuwa</b>, AELEX, Lagos, Nigeria</p> |
| 12:30-13:00 | <b>Discussion</b>   |
| 13:00-14.30 | <b>Lunch</b>  |

## Workshop 2: ESG in the distribution and retail chain

Environment Social Governance (ESG) is becoming an issue that companies have to address and handle in most jurisdictions. Although the relevant rules and provisions mostly concern the supply chain (i.e. on the procurement side), in fact they have also an impact on distribution systems and networks. The greatest difficulties arise from the lack of specific explanatory and applicative rules that should help companies to orient themselves in this matter. This workshop aims to create the conditions for a fruitful exchange of experience and information between lawyers from different jurisdictions and in-house lawyers from companies.

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| <b>CHAIR</b> | <b>Martine De Koning</b> , Kennedy Van der Laan, Amsterdam   |
| 09:30-10:00  | <p><b>Navigating Environment Social Governance (ESG) around the globe.</b></p> <p>In the last years, new rules on environment, human rights, sustainability etc. have been issued and are constantly changing and improving in many countries around the world. How should businesses respond, from multinationals to SME’s and everything in between. How do you develop and implement a coherent and realistic strategy that is compliant with (continuously changing) laws and regulations in every country you do business in. Is it possible to still meets your commercial and financial ambitions while costs rise? And does ESG fundamentally change competition on the market? Do climate-neutral and other ESG focused company and scale ups have a higher success rate than traditional companies? In this introduction we will interview a keynote speaker from IKEA who is as a legal counsel responsible for the ESG portfolio and tell us all about the do’s and don’ts and gamechangers for success at a global level in the years to come.</p> <p><b>Martine De Koning</b>, Kennedy Van der Laan, Amsterdam</p> <p><b>Annemiek Meijvogel</b>, IKEA, Amsterdam</p> |
| 10:00-10:10  | <b>Discussion</b>  |
| 10:10-10:40  | <p><b>DISCUSSION PANEL. Making your franchise/distribution system green.</b></p> <p>How to implement changes to your franchise, distribution and supply agreements and to restructure your portfolio of network stores given that contracts are binding and unilateral change clauses are not always enforceable (e.g. good faith). Is meeting ESG legal requirements (or ambitions/strategy) a good enough reason, or would it qualify as force majeure/unforeseen circumstance to (unilaterally) change the contract? Can you force your contract partners to supply ESG reporting information even if this is not stated as an obligation in your agreements? Are there any compliance risks of sharing such information, for example under competition or data protection laws? Can you</p>  |

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|             | <p>restrict your partners in their advertising to potential customers to avoid overly optimistic 'green' or 'social' claims?</p> <p><b>CHAIR: Federico Rizzo</b>, Diadora, Caerano San Marco (TV)</p> <p><b>Mariarosa Musotto</b>, Porsche Italia, Pordenone</p> <p><b>Olivia Gast</b>, Gast Avocats, Paris</p> <p><b>Kendal Tyre</b>, Nixon Peabody, Washington DC</p>   |
| 10:40-10:50 | <b>Discussion</b>   |
| 10:50-11:20 | <b>Coffee break</b>   |
| 11:20-11:50 | <p><b>DISCUSSION PANEL. How to respond to green and social claims.</b></p> <p>Companies need to comply more and more with transparency requirements in consumer advertising and product claims. Although the rules are still not clearly defined, there is a push towards the introduction of guidelines and standards: there are differences in practices, and enforcement experiences throughout the EU. The speakers will give some examples of cases that were pursued by authorities in some (in particular EU member) countries, practical tips to reduce risks, including how to ensure your distributors/agents and franchisees know what information to give and not to give, and how to respond to questions, investigations and complaints in this context.</p> <p><b>CHAIR: Janine Reudt-Demont</b>, Niederer Kraft Frey, Zurich</p> <p><b>Dominic Hui</b>, Ribeiro Hui, Hong Kong</p> <p><b>Stephen Sidkin</b>, Fox Williams, London</p> <p><b>Patrick Lindgren</b>, ADVOCARE, Helsinki</p>  |
| 11:50-12:00 | <b>Discussion</b>   |
| 12:00-12:30 | <p><b>DISCUSSION PANEL. Working across the sector, with (potential) competitors towards ESG.</b></p> <p>Carbon reduction, reducing waste such as plastics in products and packaging, making products with a longer lifespan or better recyclable. Can you coordinate or even make agreements with competitors for the greater good ESG will bring to the planet? Can you set quality requirements standards or EKO/Green certification procedures to ensure fair play in a sector? A discussion on EU competition law, in light of EU ESG regulations, standardization (such as the EU example for battery chargers) and experiences with justifying horizontal alignment for green purposes. There are many examples, EU and national authority guidelines and enforcement cases to discuss.</p> <p><b>CHAIR: Benedikt Rohrßen</b>, Taylor Wessing, Munich</p> <p><b>Renaud Christol</b>, August Debouzy, Paris</p> <p><b>Renske Sinke</b>, Kennedy Van der Laan, Amsterdam</p> <p><b>Monique van Diessen</b>, in-house counsel, Amsterdam</p> |
| 12:30-13:00 | <b>Discussion</b>   |
| 13:00-14.30 | <b>Lunch</b>  |

### **Workshop 3: Collection and use of customers' data in agency, distribution and franchising networks**

This workshop will deal with the legal issues concerning the collection of the customers' data made by retailers more or less integrated in the supplier's distribution network (e.g. e-tailers, department stores, franchisees, selective distributors etc.) and the use by the members of the network. In this framework we will not focus on privacy compliance aspects (which are given for granted), but on other legal concerns: for instance, the value and goodwill of the data, the use after contract termination, the Supplier's rights on them, etc.

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| <b>CHAIR</b> | <b>Silvia Bortolotti</b> , Buffa Bortolotti & Mathis, Turin; Vice-Chair and Secretary General IDI, IDI country expert for Italy  |
| 09:30-09:50  | <p><b>Introduction: customers' data as an important corporate asset.</b></p> <p>Today marketing is centered on sophisticated relationship infrastructures with customers. The touch points on which they are based provide an increasing amount of data that allow to engage</p> |



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|             | <p>customers and make possible a flow of personalized products based on continuous innovation. They are also becoming the raw material on which to build AI solutions that will accelerate this process. In this new competitive arena, data are therefore becoming one of the most valuable assets of modern companies.</p> <p><b>Luca Pellegrini</b>, IULM University, Milan</p>   |
| 09:50-10:10 | <p><b>The company's experience with integrated and non-integrated retailers.</b></p> <p>The speaker will bring his experience of sharing/not sharing customer's data with non-integrated retailers (such as e-tailers; department stores etc.) versus integrated retailers (e.g. franchisees, mono-brand retailers) inserting data in the supplier's CRM. What are the main practices and concerns?</p> <p><b>Massimiliano Camellini</b>, General Counsel, Max Mara, Reggio Emilia</p>   |
| 10:10-10:20 | <p><b>Discussion</b></p>   |
| 10:20-10:50 | <p><b>DISCUSSION PANEL. Restriction of the use of customers' data by retailers and franchisees after contract termination: possible risks on goodwill?</b></p> <p>Customers' data are collected in distribution and franchise networks in several circumstances: e.g. marketing activities, loyalty programs, sales and delivery, after-sale services, warranties, regulatory market surveillance, etc. Depending on the type of network, customers' data are shared among the members of the network for marketing and sales purposes, and profiled by the supplier's CRM. What happens at the end of the contractual relationship with the retailers? Can the supplier/franchisor prevent the retailer from accessing and using the data? Is there a goodwill related to the value of data that can be claimed by retailers at the end of the contract?</p> <p><b>CHAIR: Christine Borfiga</b>, Vatie, Paris</p> <p><b>Olga Szejnert-Rozsak</b>, SWKS Szejnert, Winnicka, Kowalczyk, Sosnowska, Warsaw; IDI agency and distribution country expert for Poland</p> <p><b>Raimond Emde</b>, GvW Graf von Westphalen, Hamburg; IDI agency country expert for Germany</p> <p><b>Tao Xu</b>, DLA Piper, Washington DC</p> |
| 11:50-11:00 | <p><b>Discussion</b></p>   |
| 11:00-11:30 | <p><b>Coffee break</b></p>   |
| 11:30-12:00 | <p><b>DISCUSSION PANEL. Contractual solutions.</b></p> <p>The members of this discussion panel will examine some typical clauses used in distribution and franchise agreements, regulating the ownership and use of customers' data in different contexts and jurisdictions, and will exchange views on the actual effectiveness of such clauses. Such clauses shall have the purpose to address possible issues that may arise at contract termination, to consider the position of both parties, and avoid possible disputes.</p> <p><b>CHAIR: Cristóbal Porzio</b>, Porzio, Rios, Garcia &amp; Asociados, Santiago; IDI agency and distribution country expert for Chile</p> <p><b>Mercedes Clavell</b>, Arco Abogados, Barcelona; IDI franchising country expert for Spain</p> <p><b>Alina Quach</b>, Asiallans, Beijing</p> <p><b>Peter Snell</b>, Cassels Brock &amp; Blackwell LLP, Vancouver</p>   |
| 12:00-12:10 | <p><b>Discussion</b></p>   |
| 12:10-12:40 | <p><b>DISCUSSION PANEL. Disputes over customers' data.</b></p> <p>What are the typical disputes over customers data between the brand owner and the members of its distribution/franchise network (excluding possible violations of privacy rules)? Illicit use of customers data by the former agent, retailer, franchisee? What is the legal basis used to obtain protection over the customers' data after termination? Trade secrets, unfair competition, copyright over a database?</p> <p><b>CHAIR: Marco Venturello</b>, Venturello e Bottarini, Avvocati, Turin</p> <p><b>Jean-Philippe Arroyo</b>, JP Karsenty &amp; Associés, Paris</p> <p><b>Michael Lockerby</b>, Foley &amp; Lardner LLP, Washington DC</p> <p><b>Tessa De Monnik</b>, Parker Advocatén, Amsterdam; IDI franchising country expert for Netherlands</p>  |

|             |                   |
|-------------|-------------------|
| 12.40-13.00 | <b>Discussion</b> |
| 13:00-14.30 | <b>Lunch</b>      |

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## Conference Social Program

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**Thursday 13 June 2024 - Welcome cocktail and dinner from 18:00**

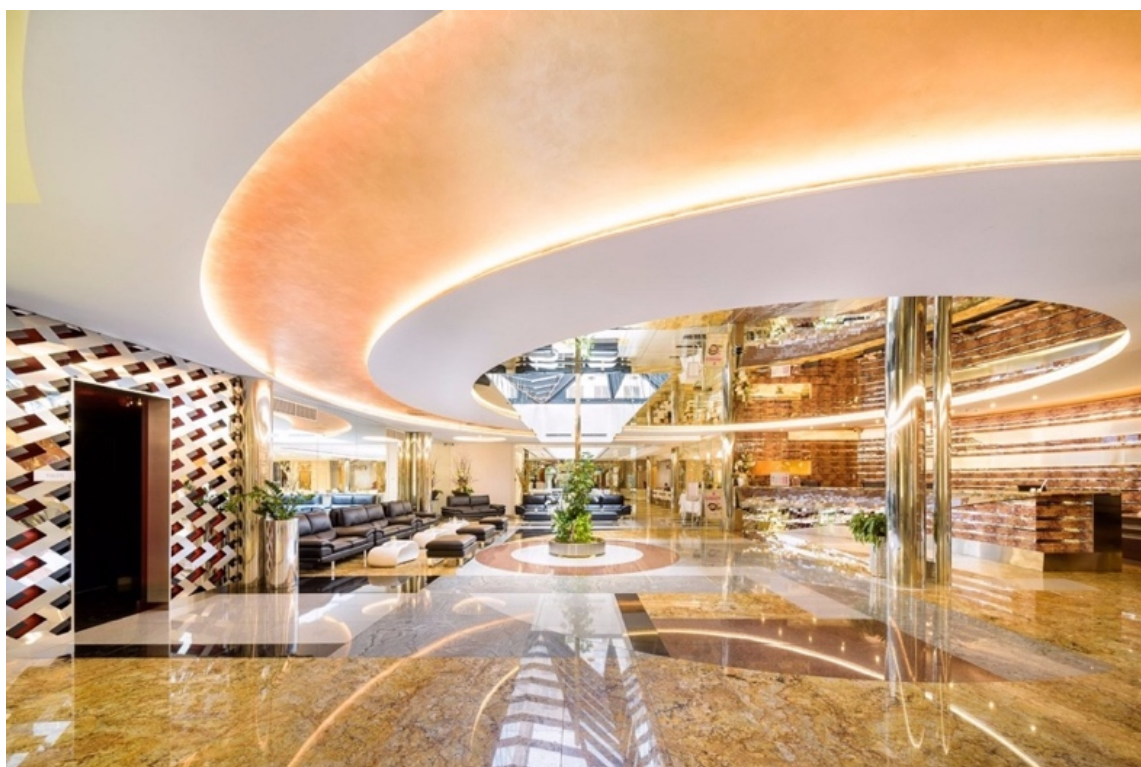
IDI is pleased to offer a **welcome cocktail and buffet/dinner to all the attendants.**

**Venue:** Grandium Hotel Prague

Politických vězňů 913/12

110 00 Nové Město, Cechia

**Pre-registration** for the Conference will be held **from 17:30 to 19:00**



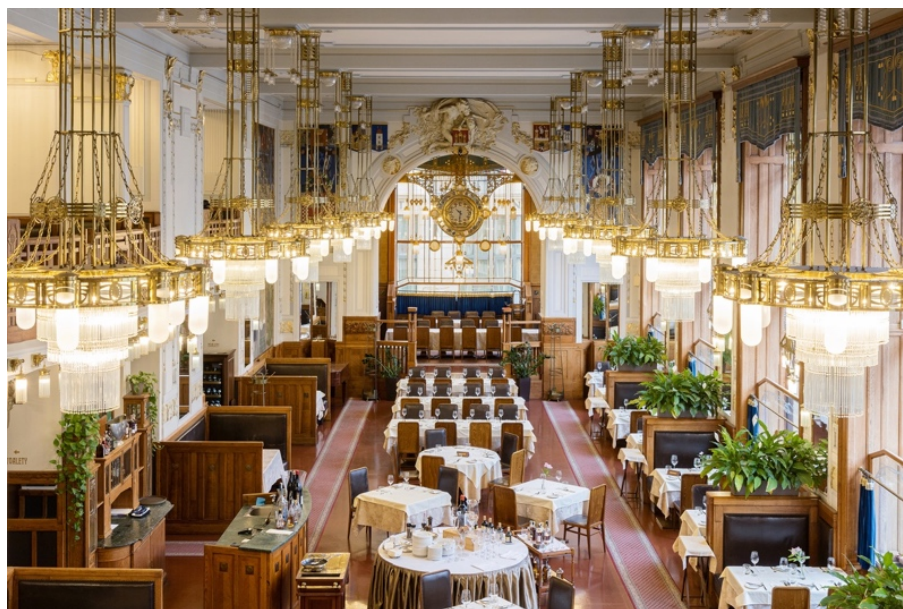
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Please, confirm your participation by [selecting the relevant box in the registration form.](#)

**Friday 14 June 2024 - Gala Dinner**

**from 20:00**

**Venue:** Municipal House Restaurant (Restaurace Obecní Dum),  
Náměstí Republiky 1090  
110 00 Staré Město, Cechia



Reservations should be made at your earliest convenience, due to the limited number of places.  
We will provide more detailed information in due time

## Practical Information

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### Conference venue:

Grandium Hotel Prague  
Politických vězňů 913/12  
110 00 Nové Město, Cechia

**Language:** English

### Fees:

|             |   |
|-------------|---|
| <b>900€</b> | Non-member  |
| <b>600€</b> | IDI member having a valid subscription at the moment of registration  |
| <b>500€</b> | Any additional participant within the same premises of the same organisation as the first participant (i.e. having the same address and VAT code) |

**To Italian attendees:** Please, **add 22% (VAT)** to your payment (**applicable only to Italian participants**).

The fee includes the cocktail/dinner on June 13, 2024, coffee breaks, lunches and documentation. Information about special discounts granted to specific associations will be provided to the relevant associations.

### Discount policy:

Please, kindly note that the discounts **cannot be cumulated** and they can be applied on the **full fee of 900€ only**.

### Gala dinner:

**Venue:** Municipal House Restaurant, náměstí Republiky 1090, 111 21, Praha 1 - Staré Město

**Fee:** 150€ per person.

**To Italian attendees:** Please, **add 22% (VAT)** to your payment (**applicable only to Italian participants**)

## Continuing Legal Education / Continuing Professional Development Credits:

In order to request an attendance certificate, please, [send an email to editorial.board@idiproject.com](mailto:editorial.board@idiproject.com)

### Registration and cancellation:

**Registration on-line:** <https://www.idiproject.com/news/event/2024-idi-annual-conference/>

**Registration by Email:** Please, fill in the registration form, and send it by email to: **editorial.board@idiproject.com**

**Payment:** Registration online: **Credit card or bank transfer.** After completing the payment, you will receive a confirmation of your registration by e-mail.

Registration by email: **Bank transfer only.** Confirmation of your registration will be sent after receiving the registration form together with the evidence of the payment.

For bank transfer payment, the payment should be transferred with no cost to IDI

NO CHEQUE PAYMENTS WILL BE ACCEPTED

### Cancellation

Cancellation requests received by IDI **by 6 June 2024 (inclusive)**, will be subject to a 20% administration charge of the total fees paid. **No refunds are possible after that date.**

### Hotel Accommodation:

**Grandium Hotel Prague:** Politických vězňů 913/12, 110 00 Nové Město, Cechia.

Please, use this link to book your room at the **special rate reserved for IDI Conference attendees:**

[https://www.hotel-grandium.cz/en/reservations/?date\\_in=2024-06-13&date\\_out=2024-06-15&promo\\_code=IDIProject](https://www.hotel-grandium.cz/en/reservations/?date_in=2024-06-13&date_out=2024-06-15&promo_code=IDIProject)

**April update: Only 23 rooms left for the night of June 13-14 and 21 for the night of June 14-15.**

Since many other events take place in Prague on the same dates of the IDI conference, **we strongly suggest you to book your hotel accommodation at your earliest convenience.**

# REGISTRATION FORM

First Name ..... Last Name .....  
Company ..... Address ..... ZIP/ Postal code .....  
City ..... Country ..... Value Added Tax (VAT) Code .....  
E-mail ..... Phone ..... Fax .....

(in case of more participants, please, fill-in a registration form for each participant)

**WORKSHOPS:** (Saturday, 15 June 2024): please specify which workshop you will attend:

- I will attend the **FIRST WORKSHOP (Supply Agreements in Franchise Systems)**
- I will attend the **SECOND WORKSHOP (ESG in the distribution and retail chain)**
- I will attend the **THIRD WORKSHOP (Collection and use of customers' data in agency, distribution and franchising networks)**

**SOCIAL EVENTS:**

- I will attend the **WELCOME COCKTAIL/BUFFET DINNER** on Thursday 13 June 2024 (included in the conference fee)
- I will attend the **GALA DINNER** on Friday 14 June 2024

**FEES:**

- IDI Conference**
- € 900:** Non-member
  - € 600:** IDI member having a valid subscription at the moment of registration
  - € 500:** Additional participant
  - € 500:** Country Expert
  - € 200:** Speaker
- Gala dinner**
- € 150:** Ticket for the gala dinner (please, specify the number of tickets: .....)

**To Italian participants:** Please **add 22% (VAT)** to your payment

**TOTAL AMOUNT:** €: .....

**PAYMENT:**

Please make a bank transfer marked «14-15 June 2024 Conference», including a clear reference to the name of the participant at the following account:

Bank: Banca Sella, Piazza Castello, Torino (Italy)

Account Name: IDI Project s.r.l.

Account Number: 052879649600

ABI: 03268 CAB: 01000

IBAN: IT86X0326801000052879649600

SWIFT: SELB IT 2B

The payment should be transferred with no cost to IDI. NO CHEQUES payments are ACCEPTED.

**Please complete this form and return it, with your payment made out to:** editorial.board@idiproject.com

Date .....

Signature .....

PRIVACY: All personal information is processed by IDI confidentially and in compliance with the provisions contained in the Italian Legislative Decree 196 of 2003. All personal information stored on our system is secured against unauthorised access. All users may exercise their rights provided by Article 7 of Dlgs 196/2003, by sending a request to: privacy@idiproject.com