



International Distribution Institute

IDI CONFERENCE 2024

Workshop 3: Collection and use of Customer's data in
Agency, Distribution and Franchising Networks.

Contractual Solutions

Prague 14-15 June 2024



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W-3 - Contractual Solutions – The Case

“Cristobal’s Crispy Chili Chicken” is a fried chicken **concept** that makes some of the best spicy chicken in the world. It is served with kidney beans/chili. It is **also known as “C-4”**.

- Tagline trademark: **Cristobal’s Crispy Chili Chicken is “Explosively Good!”**
- **“C-4”** manages 200 franchisees in Chile, Argentina, Mexico, and the UK.
- **“C-4”** distributes their proprietary spicy sauce in several chains of supermarkets in those countries.
- **“C-4”** has put in place a strong loyalty program for its customers, and its database contains information of 2,5 million clients.
- **“C-4”** is willing to export its concept to other countries: China, Canada, Spain and Europe, and build a franchise network.
- **“C-4”** is almost ready to negotiate contracts with strong candidates to become master franchisees in each of the new jurisdictions and, therefore, aware of the fact that the standard contract may not be usable as such as it is, but that it may need some adjustments, especially on the data protection issues, trade secret and goodwill.

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W-3 - Contractual Solutions – Introduction

- General elements to be considered in each jurisdiction**
- Is the European perspective applicable elsewhere**
- Key distinctions:**
 - Personal Data Protection**
 - Trade secrets: Goodwill**
 - Asset or secret**
 - Confidentiality**
 -**
- Basic rules in case of Franchising and in case of Distribution**

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Questions to be discussed before putting in place the expansion plan

1.- Should the Master Franchise Agreement and the Distribution Agreement contain specific clauses on the matter in discussion, or are local laws sufficient?

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Questions to be discussed before putting in place the expansion plan

2.- Should C-4 insist upon owning the customer data collected by its franchisees?

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Questions to be discussed before putting in place the expansion plan

3.- What are the contractual solutions to protect customer data?

Will “C-4” need to act in a determined manner and to take securities, or should the franchisee and distributor actions according to the local laws will suffice?

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Questions to be discussed before putting in place the expansion plan

4.- Who is liable if there is a breach of customer data?

Is it first, a question regarding a material breach of the contract, involving two parties, or is it first a question regarding the breach of the customer data?

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Questions to be discussed before putting in place the expansion plan

5.- Can “C-4” collect data on its franchisees?

If yes, shall “C-4” take determined precautions?

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Questions to be discussed before putting in place the expansion plan

6.- Does the master franchising contract and the distribution contract need to contain specific provisions regarding the treatment of the data in case the contract were to be terminated and or assigned to a third party?

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Questions to be discussed before putting in place the expansion plan

7.- What goodwill could be created from the use of personal data for the distribution of C-4's products through its distribution network and who should own this goodwill?

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Questions to be discussed before putting in place the expansion plan

Thank You!

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