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MEMORANDUM

TO: Distribution and Agency file

FROM: Vincenzo Sinisi
Sinisi Ceschini Mancini & Partners

DATE: June 2008

RE: Amounts due to commercial agents upon termination of the relationship

The issue of termination packages for commercial agents at the end of the relationship, is governed by Article 1751 of the civil code, which has implemented the EU Directive on commercial agents (86/653/CEE) as well as by collective agreements entered into by and between the trade associations and the unions.

The position of the unions has been that of distributing the indemnity irrespective of merit, and the relevant agreement was found to be illegal by the Court of Justice. The current agreement, backed by the Italian court decisions, now dictates that a certain amount is due in all cases, irrespective of whether the agents increased sales, and an additional amount may be due if the agent meets the requirements of the EU Directive, as implemented in Italy, In all cases, the overall amount cannot exceed the one year threshold.

Two charts summarizing the system are attached

CHART 1

Summary table of amounts due to a commercial agent in Italy
upon termination of relationship

Category of entitlement	Conditions of entitlement	Method to calculate amount of entitlement
FIRR (Termination Indemnity)	<p>This amount is always due, regardless of reason of termination and regardless of whether the agent has increased the sales volume.</p> <p>The amount is due also in the event of termination of the agency by decision of the commercial agent</p>	3% of commissions earned, however there are several ceilings for past periods
Indennita' suppletiva di clientela (Supplementary Indemnity)	The contract must be terminated by the principal, with no fault of the commercial agent	<p>3% of commissions earned during first 3 years of relationship</p> <p>3.5% of commissions earned during year 4 to 6 of relationship</p> <p>4% of commissions earned after 6th year of the relationship</p>
Indennità meritocratica (merit indemnity)	<p>This indemnity may be due IF the total amount of:</p> <p>Termination Indemnity and Supplementary Indemnity</p> <p>is less than 1 year of average commissions,</p> <p>and UP to an amount that, together with the other two indemnities, does not exceed the 1 year average commissions.</p>	This indemnity amounts to a percentage (ranging between 1 to 3 per cent) of the adjusted increase in sales, as reflected by increase in commissions, during the term of the agreement (see following table)

CHART 2
CRITERIA FOR THE CALCULATION OF MERIT INDEMNITY

Length of relationship	Calculation of Reference Increase Amount (A-B)	Formula
10+ years	<p>Average yearly commissions during the 3 years before termination (A or Final Amount)</p> <p>MINUS</p> <p>Average yearly commissions during initial 3 years of contract, adjusted to take into account increased cost of living (B or Initial Amount)</p>	<p>If the reference increase amount (A-B) is from zero to 33% of the value of the initial amount (B), the agent is entitled to an indemnity equal to 1% of the increase amount (1% of A-B)</p> <p>If the reference increase amount (A-B) is in excess of 33% and up to 66% of the value of the initial amount (B), the agent is entitled to an indemnity equal to 2% of the increase amount (2% of A-B)</p> <p>If the reference increase amount (A-B) is in excess of 66% of the value of the initial amount (B), the agent is entitled to an indemnity equal to 3% of the increase amount (3% A-B)</p>
Between 3 and 10 years	<p>Average yearly commissions during the 2 years before termination (A)</p> <p>MINUS</p> <p>Average yearly commissions during the initial 24 months of contract, adjusted to take into account increased cost of living (B)</p>	SAME AS ABOVE
Less than 3 years	<p>Four times the commissions of last quarter before termination (A)</p> <p>MINUS</p> <p>Four times the commissions during the initial quarter of the relationship, adjusted to take into account increased cost of living (B)</p>	SAME AS ABOVE