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Strengthening rights of Israeli commercial agents

A new law has recently come into effect in Israel providing new protections to local commercial agents granting services to manufacturers or marketers of products.

The Agency Agreement (Commercial Agent and Supplier) Law, 5772-2012 (the “**Commercial Agent Law**”) which came into effect on April 27th 2012 was legislated with a view of protecting a commercial agent (the “**Commercial Agent**”) acting on behalf of a manufacturer or duly authorized marketer of goods (the “**Supplier**”) and is partially based on the EU’s Council Directive dealing with self employed commercial agents.

The new law provides, *inter alia*, that a Commercial Agent under an agreement for an indefinite term will now be entitled to a minimum notice period prior to termination as set out in the law based on the longevity of the underlying relationship. Should the Supplier instruct the Commercial Agent to cease acting on its behalf during the notice period, the Commercial Agent will be entitled to compensation based on the Commercial Agent’s average profits for a set period (depending on the specific circumstances) multiplied by the relevant notice period.

Additionally, the Commercial Agent Law goes one step further and stipulates that upon termination, regardless of who the terminating party was, Commercial Agents will be compensated for building the relevant market for the Supplier. The formula for calculating such compensation is based on the level of transactions with new and existing customers and subject to fulfillment of other parameters as set out in the new law.

It should be stressed that parties to such agreements cannot “contract out” of the Commercial Agent Law and any contradictory terms may not be enforceable by the courts.

In light of this new law it is highly recommended that any new and existing arrangements and agreements with any party which may be considered a Commercial Agent be analyzed considering its terms. For instance, the drafting of the notice period and termination compensation provisions should expressly relate to such new law. Additionally, Manufacturers should consider fixing the term of any such agreements which are not set out for a definite term along with any formal extensions thereto.

This note was prepared by *Gottlieb, Gera, Engel, Heifetz & Co.* as a general overview of the new Commercial Agent Law and should not be viewed as comprehensive legal advice. We highly recommend that specific legal advice should be sought on a case by case basis.

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