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MINI SUMMIT IX: IMPLEMENTATION OF COMPLIANCE PROGRAMS ACROSS DIFFERENT COUNTRIES - CULTURAL IMPLICATIONS

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Overview

- I. How to structure a Distributor relationship?
- II. What is the impact of the structure on compliance?
- III. What are the recommendations for a Manufacturer?

I. How to structure a distributor relationship?

1. Options

- Sales Agent Structure
- Independent Distributor structure
- Subsidiary structure

I. How to structure a distributor relationship?

2. Sales Agent

- Selling on behalf of Manufacturer
- Fully integrated into Manufacturer's organization
- Providing Manufacturer with all customer's details
- Being entitled to receive post-termination-compensation

I. How to structure a distributor relationship?

3. Independent Distributor

- Is purchasing products at Manufacturer and selling the products in the own name and on own invoice to customer
- Different levels of integration in the Manufacturer's structure
- Risk: being entitled to receive a post-termination-compensation

I. How to structure a distributor relationship?

4. Subsidiary

- Is purchasing products at Manufacturer and selling the products in the own name and on own invoice to customer
- Fully integrated into Manufacturer's organization

II. What is the impact of the structure on compliance?

1. Sales Agent

- Sales Agent is an integral part of the Manufacturer's organization
- Sales Agent must fully comply with all laws
- Sales Agent must fully comply with all Manufacturer's compliance/ethic rules
- Manufacturer needs to audit whether the Sales Agent is fulfilling its obligations
- Manufacturer is mostly liable for Agent's failures

II. What is the impact of the structure on compliance?

2. Distributor

- Distributor is not integral part of the Manufacturer's organization
- Distributor must comply with all laws
- Distributor must comply with its own compliance rules
- Manufacturer is obliged to review/audit Distributor's behavior, if there is no obligation of the Distributor towards the Manufacturer

II. What is the impact of the structure on compliance?

3. Subsidiary

- Subsidiary is integral part of the Manufacturer's organization
- Subsidiary must comply with laws
- Subsidiary must comply with Manufacturer's compliance/ethic rules
- Even though Subsidiary is an independent organization audits of the organization are highly recommended

III. What are the recommendations for a manufacturer?

1. If a Sales Agent-structure is chosen,
 - The Sales Agent must comply with all rules
 - The Sales Agent needs to be audited closely
 - Manufacturer is fully liable
 - Manufacturer needs to be aware of the post-termination-compensation

III. What are the recommendations for a manufacturer?

2. If Distributor-structure is chosen,
 - The Distributor is fully liable by itself, if there is no obligation towards the Manufacturer; no further audits are necessary
 - The Distributor needs to be audited very closely, if the Distributor has significant reporting and approval obligations towards the manufacturer
 - The Distributor could be entitled to get post-termination-compensation, if the Distributor is considered as being integral part of the Manufacturer's structure

III. What are the recommendations for a manufacturer?

3. If Subsidiary-structure is chosen,
 - The Subsidiary is fully liable by itself
 - Audits/inspections are highly recommended, since Authorities would expect that Manufacturer has significant influence on Subsidiary

III. What are the recommendations for a manufacturer?

4. If Joint Venture-structure is chosen,
 - All compliance-related aspects depend on the level of influence on joint-ventures
 - The joint-ventures could be entitled to get post-termination-compensation

QUESTIONS?

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