

# CLIMMAR DEALER 2030

## COLLABORATION BETWEEN DEALERS AND SUPPLIERS CLIMMAR BACKGROUND ON POSITION PAPER 2018

### **Introduction**

As long as suppliers\* and dealers have existed, there have been conflicts in their relationship that has led to difficulties with operating a successful dealership with a strong and secure future. Trust and loyalty are fundamental ingredients for a stable and profitable relationship and if this does not exist between a supplier and a dealership, the future relationship will not survive changes or difficulties.

Changes in demand, in local and global markets, together with supply problems, legislation, staff and financial instability can affect the needs of both the supplier and dealership businesses. There are many circumstances which affect the relationship and the structure required to achieve progressive growth to encourage a mutually successful trading partnership. It does, however, seem very clear that in most cases a supplier cannot support its products in the field without the involvement of a dealer. Sales and after sales support are paramount to the success of any brand and locally only a good well equipped well-staffed dealership can provide this, not a supplier.

Whilst the need for the involvement of a dealer in the supply chain is clear, it should also be clear that the supplier is equally important to the dealer and maybe more important to the customer, because without the supplier or manufacturer there is no supply chain and no product for the dealer to sell or support.

Erik Hogervorst, President of CLIMMAR says:

*“In the whole Dealer 2030 discussion, increasing problems in the relationships between dealers and manufacturers were put high on the agenda. The gap between the global view of manufactures and the local focus of dealers, is getting bigger and bigger. Contracts between dealers and manufacturers are nowadays orchestrated by law firms. They don't like uncertainties and see no reason to keep in mind the investments, in time and money, done by dealer organisations. This results in contracts without the right balance. CLIMMAR wants to work together with manufacturers to create a better understanding about each other's positions and set up basic guidelines for mutual win/win contracts”.*

This paper is intended to explore the nature of the supply chain relationships, the use of contracts to control dealers and distribution of products, and the benefits or difficulties these contracts offer dealerships in general.

### **Backgrounds**

There is a need to have an understanding between a supplier and a dealership and this is initially achieved by means of a contract. The supplier contract is written to suit the expectations of the supplier with very little regard to the dealer or benchmarking of the level of support and services upon which the supplier can be held to account. These contracts are

usually agreed by a dealer because the dealer wants the franchise for a number of reasons. In normal business this works, but when difficulties arise and the terms of the contract are being enforced the dealer can be of the opinion that it is unfair and one sided.

There is a need for written reasons for termination and the right to rectify complaints. In nearly all cases the decision to change the dealership network is made and immediately followed by a new appointment of another dealership to take up the franchise. There is no provision for the dealer to answer or justify any alleged shortcomings in their performance.

**CLIMMAR** seeks to address an imbalance in the contract terms of suppliers by standardising certain areas such as termination clauses and compensation. CLIMMAR instigated this process previously in 1995 by reaching an agreement with CEMA, the European Manufacturers Association on some standard contract terms. Regretfully CEMA declined to sign up to the final draft of this document.

## **Limitations of Contracts**

Out of necessity, there is a great deal of detail in a dealer contract that clarifies how both parties should work. Mostly this is for the benefit of both but there are areas that favour the supplier over the dealer and CLIMMAR wants to address these areas. It is accepted that the supplier needs to protect its business and brand reputation but this should not be at the expense of the dealer.

Areas of concern are with the investment required by dealers when contract notice periods can be as short as three months. Should a dealer be expected to invest heavily in a brand with only a short notice period? This makes it difficult to secure financial support and engage in long term business development planning for the dealer.

**Termination** clauses give notice but it is usually the case that this is made public and the dealers business will be adversely affected immediately. Termination can also be given without a reason in some cases or based on poor performance which is subjective in many cases and can affect the reputation of a dealer. There are genuine and understandable reasons for a termination as well, but CLIMMAR's position is to deal with the unfair aspects of these contracts and not to question obvious genuine reasons for termination. It should also be bared in mind that termination of dealerships is not solely driven by manufacturers as aggressive dealerships look to expand their sales territory through the exertion of pressure on their supplier to terminate a neighbouring competitor.

**Compensation** can come in the form of unused whole goods being returned for a cost credit, parts being returned under a parts returns programme at a discounted rate. It will rarely cover cost of specialist tools, signage, investment in training or lost profit from future secured sales and service activities.

There needs to be a clear policy to determine compensation for the dealer based on the perceived value of the customer goodwill, market penetration and turnover of the supplier's whole goods and service support income generated by the outgoing dealer.

## **Market Trends and Adaption**

The effects of market trends and the way the supplier chain needs to adapt to change will affect contracts. This is rarely appreciated and contracts signed today may remain the same

for the duration of the trading partnership with no provision being made to adapt the contract to reflect the ever-changing market. Areas such as smart farming, legislation, (owner) succession, technology, financial demands and the way the supplier needs to react to this within the distribution channel will affect a dealer and requires the dealer to move forward sometimes without notification or guidance from the supplier. If progress is required but the dealer is unaware of the supplier's aspirations, termination may be the only answer for the supplier, but is this fair to the dealer?

## **Financial Impact**

It can be argued that the only reason any company will be selling equipment is to make a profit and as long as this holds up for both the supplier and dealer, all is well. How much investment can a supplier expect a dealer to make for its brand when the contract termination clause is only for a short period of time meaning the dealer may only have a limited future by nature of the contract terms?

We have seen a lot of dealer consolidation where the supplier is creating a 'super dealer' by consolidating a number of dealers into one with a target turnover in excess of €25 million. This is a forced situation that suits the supplier and raises questions about the financial viability of the super dealer or the ability of other dealers to compete. The trend towards fewer unit sales in favour of larger machinery has necessitated the supplier to create 'super dealerships' operating over larger territories with the capabilities to finance high capital cost in new and second hand stock.

This is a clear point of consideration in the Market Trends and Adaption paragraph above which could easily be reversed as concerns about soil structure, compaction and cultivation costs are raised.

Warranty work in this day and age where the internet plays a big part in sales plus the creation of national contracting companies and hire companies, any franchised dealer can be approached to carry out warranty work even though they have not secured a profit from the sale to subsidise warranty costs. How is this dealt with in the modern-day contract?

## **Security**

A supplier contract should provide the dealer with a level of autonomy to manage its own business and the security to enable him to work towards a long term mutually beneficial future with the supplier. Certain aspects of a contract may not allow this to happen and these need to be addressed.

## **Conclusions**

CLIMMAR will address the main areas of concern within dealer contracts as mentioned below. It will be necessary to further discuss with dealers and suppliers and to try once again to establish a fair platform for dealer contracts as was the case in 1995.

It is clear that suppliers and dealers need to work together within the supply chain in a mutually respectful and acceptable way and that the needs of both need to be considered in a constructive manner.

Suppliers terms and conditions need to be studied and areas of concern such as termination clauses and compensation packages need to be detailed and addressed with suppliers to determine if there is a willingness to adapt more to the needs of a dealer.

Suppliers should be accountable for standards that are required by the dealer and these should be quantified in the contract. These all represent a high investment from the dealer but are not recognised for compensation within a dealer contract:

1. Corporate signage and identity
2. Local advertising and sales budgets
3. Dealer training provision and product updating costs
4. Availability of demonstration equipment
5. The provision of skilled technical and sales support staff
6. Warranty turn around and payment times
7. Diagnostic software license costs
8. Supplier policies implemented to discourage the dealer network selling across each other's territories
9. Restrictions on the sale of other supplier's products

Consideration should be given to approaching CEMA but the last-minute failure of the 1995 negotiations may still be an issue. These papers should be studied to understand better the possible outcomes and if they are relevant today.

***“It is neither the strongest one that survives nor the most intelligent, but the one that is most adaptable to change.”***

The discussion on the termination clauses are two-sided. In writing, a 12 months' notice sounds better than a 3 months', but in reality, it doesn't matter as long as the contracts are non-exclusive. The supplier can appoint a new dealership across the road at any time. So, the real discussion should be on the terms and conditions.

And talking about the termination clauses and terms – we have to address maybe the biggest future problem – financing the business. The banks are considering dealers as agents in a market. In addition, the banks are focussing more on the contractual issues between manufacturer and agent. If a dealership has a €10 million obligation in a bank and a 6-month termination clause (or in reality day-to-day notice) from a supplier covering 90% of the business, yes that's the problem in a nutshell. And the banks are getting more aware on this crucial issue.

We need to reach a situation where the suppliers and dealers are more equal. Today it is simply too uneven. The supplier is only interested in the dealer making just enough money to pay the bill for the delivery of the next 20 tractors. If the dealer gets too strong, he could become a threat to the supplier. The supplier does not care about the dealer being a small or midsize family owned company. We have to fight for an equal business relationship – with mutual respect.

The suppliers are focusing heavily on “full-line” dealers. This means that a ‘brand A’ dealer has to cover the full product range from tractors to implements. A typical brand A dealer today has the tractors and combines but the implements are sourced from other suppliers for maybe 20 to 30 years. A big part of his customers is making business with him due to the

non-brand A implements. There is good profit connected to this and the diversified product portfolio is what produces the positive bottom-line for the dealer. Then brand A forces the dealer to cut off his implements programme and take on the ones produced by brand A. We have yet to see that the dealer can make a living from this. In the car industry they tried the same years ago. The car dealer could only sell i.e. Renault. In many cases it was not possible to make a positive net result based on this. Therefore, most car dealerships today are back to multi-brand. Why do we have to go through the same in our business before concluding that it did not work out 7 years from now?

When all this is said, we also have to look in the mirror. The dealers must be professional and the supplier has every right to set reasonable demands for selling their product. It's a free world and nobody forces the dealer to sell the products. He could find something else to do. Therefore, a vast part of the demands in the contracts are not unreasonable as for example merchandising, interior and exterior decoration and appearance, staff training etc.

So, we have a good background description on our stand points - but we need to pin-point maybe 5 headlines to present like:

1. Termination clauses
2. Full-line
3. Compensation
4. Independent
5. Long-term exclusive contracts

\* Manufacturers are referred to as suppliers