

# The Thinking Salesman Letter

Monday February 1, 2011

Hello Everybody,

We thought some of you might benefit from our forty years plus experience in setting up distribution networks across North America and Latin America.

The purpose of this bi-monthly newsletter is to present the pros & cons of distribution systems from the Mfrs, Distributors and Reps' point of views.

If you wish to have names added or removed, please email us at [info@albro.com](mailto:info@albro.com)

Regards,  
Al Brosseau, CPMR (Indiana U., 2003)  
MANA board of directors (2002 to 2007)

## Distribution 101

**Direct selling.** The problem with “going direct” is that too many Mfrs get into this form of distribution thinking they will eliminate the “middle man” and increase their margins. **There are costs to distribution** and **when Mfrs go direct they'll have to absorb the costs borne by the distribution system.** For instance:

**1) Credit:** When selling directly to end users collection is riskier and longer. For instance, in construction GCs (general contractors) are notorious for withholding payments and governments can be bureaucratic and litigious.

**2) Competition:** In addition to other Mfrs who compete at the same level, when “going direct” one has to compete with the local distributors. These well established and connected “locals” can be fierce.

We know a Client who came close to bankruptcy on a large government contract. A local distributor who felt he had been “passed over” by our Client did his best to make sure the Mfr didn't get paid and almost succeeded. Some of these local guys have “influence”.

**3) Medium & High tech products:** These Mfrs also find themselves in the education business. There's nobody but themselves to educate the end users on their selling points and use of their product.

**4) Service:** The Mfr must handle the service end of his business or outsource it. Either is costly and greatly reduces the “advantages” of “going direct”.

All forms of distribution have their pros & cons. The real question *-after management has considered and understood all options-* is which form of distribution are they the most at ease with.

## Relationship Between Mfrs & Reps (V)

### The rep agreement (III):

The “Territory/Arm's Length” clause is common to both the Standard & LOP/LOP\* agreements. It has (3) purposes:

- 1) Describing the Product line.
- 2) Defining the territory
- 3) Describing the arm's length relationship.

\* For details on the LOP/LOP see our Jan 3, 2011 newsletter.

**1) Product line:** This is where the products the Rep will represent are described; it's called the line. Most agreements state the lines are “exclusive” in the territory (see 2) However, some agreements also state the lines are “unique”. Supposedly, “exclusive” means the Rep is the only Rep who handles the line in the geographical territory and “unique” means other Reps *but from different industries* can also handle the line within the geographical territory. Be aware of this possible subtlety.

We understand in some jurisdictions, if the “Rep” has only one line the tax authorities consider him an employee i.e. the commissions are considered salary and subject to employer's contributions and deductions at the source.

### 2) Territory:

With a LOP/LOP agreement, the territory is the Rep's customers list. With the standard form it's a geographical area. A word of caution here, Reps have a tendency to think they cover more than they actually do (at least do well) and taking anything away is a lot harder than giving. i.e. **we prefer to start with a smaller territory and graciously expand it later.**

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**HOUSE ACCOUNTS.** They are a major irritant for Reps but we can understand their existence in some cases. However, house accounts needs to be covered anyway, so Mfrs., mediate something such as a lower commission on "house accounts".

### 3) Arm's Length.

This is where the arm's length relationship between the Rep and the Mfr is established. It should clearly state that the Rep:

- a) Is not an employee of the Mfr.
- b) Is an independent business man/woman who makes his/her own decisions.
- c) Is responsible for his/her own expenses.
- d) Has no authority to bind the Mfr.

We heard if the arm's length relationship is not respected, the commissions might be interpreted as salaries and subject to employer's contribution and deductions at the source.

Another contentious issue: **REPORTS!**

Mfrs, if you ask Reps for REGULAR reports you might void the independent status of the Rep. **And Reps, occasional, when required reports are NOT regular reports;** stop hiding behind this and communicate with your Mfrs. **Good open communication with the Principals is essential to a successful agency.**

We also ran into a few instances where after Mfrs cancelled Reps they asked them to return all documentation. We bet this could make the Rep an employee and turn the commissions into a salary subject to employer's contribution and deductions at the source. Again, check with your lawyers.

### Our "Two Cents" Worth

There are several good associations for those involved in sales. For instance there's MANA (Mfrs' Agent National Assoc.) along with MRERF which is the "educational arm" of MANA and several other Rep associations. There's also the CSI (Construction Specifiers' Institute) with its CCPR program dedicated to sales people in the construction industry.

All are doing a great job. However, we don't think they ever talked to each other. With the current difficult economic times we wish these and other sales associations would collaborate with each other and coordinate their efforts in promoting the sales profession.

We're sending a special mailing of this issue to several MANA, MRERF and CSI executives along with their contact information. Hopefully they'll talk to each other.

Thought:

**Change before you have to.**

Jack Welch



**BLOG**

**Announcements? Comments?  
Questions? Snide remarks?**

Go to: [www.albro.com](http://www.albro.com)  
Click on "Blog" and "go for it"

**Next issue, Feb. 15, 2011,**

Marketing plans  
Rep agreements IV: Mfr's & Reps duties.

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