Consumer products and retail disputes and investigations

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Supporting consumer products and retail disputes and investigations

For CMS people, connecting with your business, your people and your world to help you achieve your goal is our mission, motivation and the measure of our success. That’s why clients trust us with their most complex disputes and investigations challenges. Having CMS on your side means:

**Quality and depth of resources.**
With more than 300 dispute resolution specialists to choose from, your CMS team has the expertise and capacity to handle the most complex disputes and investigations.

**Global reach with local insight.**
CMS is truly international and bridges cultural differences. Our dispute resolution lawyers think and act internationally while delivering local results.

**Proven high-stakes advisers.**
We handle disputes worth billions of Euros on a daily basis. Clients trust us with their most sensitive, difficult and business-critical cases.

**Sector specialists.**
We work closely with industry experts, including academics, scientists and lawyers in regulatory specialisms as required, to provide you with commercial legal solutions tailored to your business.

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CMS is my go-to firm for arbitration and litigation cases as it is prompt in answering, very solution-oriented, sharp and provides to-the-point advice. Moreover it is procedurally savvy and highly efficient. I like that it doesn’t waste our time with dozens of pages of theoretical evaluations.

*Chambers Europe 2015, Client quote*
Relevant experience includes advising on the following areas within the Consumer Products sector:

**Dispute resolution (commercial litigation, international arbitration and alternative dispute resolution)**

— A global consumer products company on a claim against a major retail chain for breach of a discounted supply agreement and advising on the successful settlement of the claim.

— A Turkish distributor of baby products in a significant claim against a large European electrical goods manufacturer for breach of contract and misrepresentation following a disputed termination of a distribution agreement.

— Belgium’s largest food retailer in proceedings against Mastercard claiming damages for the amount of interchange fees charged following a ruling by the EU’s General Court finding Mastercard’s fees are illegal.

— A Japanese retail holding company on defending a claim from its UK sales agent under the Commercial Agents’ Regulations.

— A major European retailer in relation to warranty claims made post-acquisition and subsequent settlement and post-acquisition agreements.

— A European electrical wholesaler in relation to claims for unlimited damages and an injunction relating to allegations of misuse of confidential information, breaches of restrictive covenants, and unlawful enticement of employees and advising on a minority shareholder dispute involving allegations of unfair prejudice as well as a subsequent mediation and a multi-jurisdictional settlement.

**Fraud, anti-bribery & corruption**

— A leading online retailer on potential liability for money laundering offences arising out of the processing and transferring of proceeds of sale from counterfeit goods.

— A global publisher on internal and external investigations into improper payments made in connection with a World Bank sponsored education project in Africa and advising on settlement negotiations with the World Bank and other authorities.

— A global consumer products company advising on risks associated with high-value hospitality procedures to be implemented to minimise those risks.

— A UK headquartered publisher on an internal investigation into anonymous whistleblower allegations concerning a major contract won by an overseas subsidiary.

— A car components manufacturer in connection with an internal investigation of bribery allegations relating to employees in an overseas subsidiary.

— A multi-national food and beverage business in relation to a former employee’s conduct in requesting “sponsorship” payments from customers and whether it could result in criminal liability for the company.

— An international consumer products company in relation to allegations that an employee had been receiving kickbacks from suppliers in return for supplying confidential information regarding competitor’s tender pricing.

— A luxury goods holding company on money-laundering and compliance issues and potential criminal proceedings.

CMS provide a service that really adds value to the business. They resource matters in a way that ensures value to the client, rather than over lawyer. Their industry knowledge and commercial approach are second to none.

_A global food and wellness company_
— An international online retailer on potential criminal risks under English law as part of a risk review, involving teams from almost all practice areas in the firm, to highlight the highest risk criminal offences within the client’s disciplines that the client was likely to face.

Regulatory compliance

— An international food, ingredients and retail group on a horizontal high-level systems review of its Food Law Programme and a selective vertical systems review of one of its subsidiary companies.

— An international fast food hamburger chain on the data protection implications, and related privacy considerations, of its impending multi-million dollar launch of a new service.

— A global leader in alcoholic beverage sales on the new additives legislation and the restriction on flavouring for certain malt beverages.

— An international food retailer on regulatory and advertising issues in relation to nutritional claims for a pioneering quick-service restaurant food product in a number of European locations.

— A European business group, with leading expertise in construction, manufacturing, hospitality and property management, on restrictions governing the importation of wine into the EU.

— An online ticket exchange marketplace on a challenge to its business model and website by the Office of Fair Trading.

— A global fast food chain on the developments in the horsemeat contamination scandal, the role of Select Committees and the level of testing being carried out.

Product liability

— A global online food retailer on a wide range of food liability issues, in the context of the distribution and storage service the OFR provides to its third party sellers of food products.

— A client in relation to an urgent product recall on its discovery that contaminated wine had passed into its downstream supply chain.

— A major high street clothes retailer in its planned expansion to sell food in-store, including putting in place a suite of contracts, policies and procedures to minimise the risk to the retailer of product liability issues arising.

— Various car manufacturing companies on product liability disputes in Russia, involving human casualties and substantial damage to the property.

Competition & procurement

— A large Dutch food producer on a cartel investigation by the Dutch Competition Authority.

— A cross-border cartel case with German flour millers and in a joint venture between competitors.

— An international leading brewer on several competition investigations in Spain related to the supply of kegs and of carbon dioxide.
— A leading drinks brand on issues under anti-competitive agreements (distribution, category management and pricing strategies) and on pricing and refusal to supply issues for dominant brands, including conducting competition law audits of designated accounts.

— A fashion company in court proceedings in the Netherlands regarding trade mark infringement and/ or parallel import/piracy.

— The European leader in the wholesale distribution of office products, services and solutions on four different cartel investigations initiated by the Spanish Competition Authority in relation to envelopes, filing products and paper products, including the filing of a leniency application.

— One of the major companies in the dairy sector in Europe on proceedings opened by the Spanish Competition Authority against the main players in the industry for alleged restrictive practices.

**Intellectual property**

— The world’s leading nutrition health and wellness company on its application to register the shape of a KitKat as a trade mark in the UK, and the proceedings in the Court of Justice of the European Union.

— UK food and cosmetics giant on a number of IP related issues, including a dispute with former employees, both chefs, who appear in Knorr advertising campaigns.

— A global cosmetics company on several matters of trade mark infringement, including taking enforcement action against online sellers of counterfeit goods and on petitions to the Company Names Adjudicator.

— The national governing body for the sport of Polo in the US in High Court proceedings relating to the importation of allegedly counterfeit USPA branded apparel.

— A British fashion and lifestyle brand in relation to a range of IP enforcement matters.

— A manufacturer of robotic toys on enforcing design rights and other intellectual property on against a major UK High Street retailer.

— A leading global consumer products company on a patent litigation defence strategy to assist the client following a product launch that the client had discovered might be affected by a competitor patent in 35 countries.

— A manufacturer of food coatings in a patent infringement matter spanning a number of jurisdictions. This involved coordinating patent litigation and patent prosecution, as well as advising the client on general commercial strategy.

— A major FMCG manufacturer on the seeking a declaration of ownership of the trade mark relating to a key brand.

— A digital television shopping channel on a range of IP matters, including defending allegations that products sold infringe patents or registered designs, and on patent clearance investigations.
Advertising & marketing

— A Swiss transnational food and beverage company on its appeal to the High Court and then on the reference to the Court of Justice of the European Union in respect of the application to register the shape of its wafer biscuit bar as a 3-dimensional trade mark.

— A leading beverage sales company on food labelling regarding imagery on juice drinks.

— A top 10 global brand and industry leader in technology on the successful rejection of a comparative advertising complaint by a competitor in relation to a new vacuum cleaner.

— A global food and drink client on various media issues, including on two investigative documentaries (by Panorama and Channel 4 Dispatches) and a proposed BBC feature film all raising serious allegations.

— A global leader in alcoholic beverage sales on an ASA complaint in relation to a TV advertisement for rum, in relation to linking alcohol with social success and daring behaviour and a high profile Christmas advertisement for an Irish whiskey and cream based liqueur, featuring an arrangement of a dance from a popular ballet.

— An organisation promoting the use of genuine cashmere and camel hair products on preparing a complaint for submission to the ASA regarding products on a national retailer’s website.

— A leading global FMCG company on a competitor’s comparative advertisement and potential action, including advising on scope for injunctive proceedings and complaint to the ASA.

— A global drinks manufacturer on the emergency pulling of a new product launch.

— A global leader in alcoholic beverage sales on a wide variety of issues relating to potential product claims, including advice on a new range of ready to drink cocktails containing reduced calorie or ‘diet’ mixers. We also advised on the impact of EU regulations on health and nutritional claims; and the likely risks involved with different claims and labelling proposals.

Real estate

— A national supermarket retailer on alleged infringement of its property rights over its service area including complex issues surrounding section 237 of the Town and Country Planning Act 1990.

— A national supermarket retailer on a successful defence to a claim for negligence related to alleged failure to remove asbestos.

— A global consumer products company on the asset management of its European property portfolio.

— A global drinks manufacturer on the asset management of its property portfolio in the United Kingdom.

— A US headquartered global marketing technology and services company on the defence of a £1.5 million dilapidations claim.

— A leading family leisure, baby care and toy megastore on the asset management of a number of its stores across England and Wales.
The firm receives no end of praise for its keen attention to client service, entrepreneurial spirit and sharp legal expertise in the spheres of arbitration and litigation. The practice handles disputes in diverse capacities.

Chambers Europe