

The legal environment of foreign marketing



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The legal environment of foreign marketing takes an added dimension of importance since there is no single uniform commercial law which governs foreign business transactions. ” - Comment. International marketers must be aware of the legal environments that they operate in. As there is no uniform international law regarding business transactions, companies can find themselves wasting money or in legal issues if they do not operate according to the laws in the specific countries they are in.

The customs, politics, and geography vary greatly from country to country and are affected by the gal environment. It is extremely important that international markers are aware of this added dimension and are prepared. No single, uniform international commercial law governs foreign business transactions. The foundation of a legal system Profoundly affects how the law is written, interpreted, and adjudicated Laws governing business activities within and between countries An integral part of the legal environment of international business .

Four heritages form the basis for the majority of the legal systems of the world Common law, Civil or code law, Islamic law, and Marxist-socialist tenets Common law Derived from English law. England, U. S. , Canada and countries who were once under the English influence. Seeks interpretation through the past decisions of higher courts which interpret the same statues. Applies established and customary law principles to a similar set of facts Civil or Code law derived from Roman law.

Germany, Japan, France and non-lactic and non-Marxist countries. All-inclusive system of written rules (codes) of law: Legal system is generally

divided into three separate codes 1.) Commercial 2.) Civil 3.) Criminal Ownership is determined by registration. Considered complete as a result of catchall revisions found in most code-law systems Islamic law Places emphasis on the ethical, moral, social, and religious dimensions to enhance equality and fairness for the good of society. The basis is the interpretation of the Koran.

Islamic law defines a complete system that prescribes specific patterns of social and economic behavior for all individuals: 1.) Property rights 2.) Economic decision making 3.) Types of economic freedom Islamic law This system prohibits investment in a business dealing with Alcohol, gambling and casinos In order to comply with Islamic Law following are terms that are frequently use: Trade with markup or cost-plus sale and leasing. These practices enable borrowers and lenders to share in the rewards as well as the losses in an equitable fashion.

The international marketer must know the religion's system of belief and understand how the law is interpreted in each region Marxist-socialist Tenets of Russia and the Republics of the former Soviet Union, Eastern Europe, and China. Legal system centered on the economic, political and social policies of the state. Now more directly involved in trade with non-Marxist countries Differences among the 4 law systems Due process may vary. Individual interpretation may vary Fundamentalist interpretation of Islamic law. Combination of several legal systems. U. S. Sees both common and code law Marxist-socialist tenets strictly subordinate to prevailing economics conditions. Private ownership, contracts, due process and other legal mechanisms need to be developed. Russia and China differ because Each <https://assignbuster.com/the-legal-environment-of-foreign-marketing/>

has taken a different direction in its political economic growth. Russia is moving toward a Democratic System. China is trying to activate a private sector within a mixed economy in a socialist legal framework Jurisdiction in International Legal Disputes No judicial body exists to deal with legal commercial problems arising between citizens of different countries.

Legal disputes can arise in three situations: 1.) Between governments 2.) Between a company and a government 3.) Between two companies

Jurisdiction is generally determined on the basis of: Jurisdictional clauses included in contracts, Where a contract was entered into, Where the provisions of the contract were performed Jurisdictional Clause “ That the parties hereby agree that the agreement is made in Oregon, USA, and that any question regarding this agreement shall be governed by the law of the state of Oregon, USA” Types of International Disputes Buyer refuses to pay.

Product is inferior quality. Shipment arrives late Steps when a dispute arises... Resolve the issue informally, Conciliation aka Mediation, Arbitration, Conciliation a nonbinding agreement between parties to resolve disputes by asking a third party to mediate differences. Sessions are private and all conferences between parties and the mediator are confidential. In all conciliation agreements An arbitration clause should be included The popularity of arbitration has led to a proliferation of arbitrary centers. Established by countries, organizations, and institutions.

Inter-American Commercial Arbitration Commission. Canadian-American Commercial Arbitration Commission (for disputes between Canadian and U. S. Businesses). London Court of Arbitration (decisions are enforceable under

English law and English courts). American Arbitration Association.

International Chamber of Commerce (select Arbitration) Arbitration clauses require agreement on two counts 1 . To arbitrate in the case of a dispute according to the rules and procedures of some arbitration tribunal. 2. To abide by the awards resulting from the arbitration

Contracts and other legal documents should include clauses specifying the use of arbitration to settle disputes Problems with Arbitration Companies may refuse to: 1 Name arbitrators 2.) Arbitrate 3.) After arbitration awards are made companies may refuse to honor the award 4.) In most countries, arbitration clauses are recognized by the courts and are enforceable by law within those countries Deterrents to litigation Fear of creating a poor image and damaging public relations. Fear of unfair treatment in a foreign court.

Difficulty in collecting a Judgment that may otherwise have been collected in a mutually agreed settlement through arbitration. The relatively high cost and time required when bringing legal action. Loss of confidentiality 4

recommended steps for settling disputes Try to placate the injured party.

Conciliate. Arbitrate. Litigate Companies spend millions of dollars establishing brand names or trademarks To symbolize quality and design. To entice customers Millions are spent on research To develop products, processes, designs, and formulas Lost sales from the unauthorized use of U. S. Tents, trademarks, and copyrights Amount to more than \$100 billion annually Counterfeits range from copies that have the same efficacy as the original to those with few or no active ingredients, to those made of harmful substances Inadequate Protection Failing to adequately protect intellectual property rights can lead to the legal loss of rights in potentially profitable

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markets A company that believes it can always establish ownership in another country by proving it used the trademark or brand name first is wrong and risks the loss of these assets It is best to protect intellectual property rights through registration In the U.

S. , a Common-law country, ownership of intellectual property rights is established by prior use versus registration International Conventions Three major aspects: Paris Convention for the Protection of Industrial Property, Inter- American Convention, Madrid Arrangement All countries have laws regulating marketing activities Promotion, Product development, Labeling, Pricing, Channels of distribution Discrepancies across markets cause problems for trade negotiators – particularly for managers and their firms U. S. Does not allow the buying or selling of human organs. Some countries only have a few marketing laws with lax enforcement.

Others have detailed, complicated rules that are stringently enforced 0 Advertising comparisons in advertisements are always subject to the competitor's right to go to the courts and ask for proof of any implied or stated superiority Green marketing laws Focus on environmentally friendly products and Focus on product packaging and its effect on solid waste management Antitrust a lot of the 20th century it was Nonexistent and Not enforced in most of the world's countries (U. S. Was exception) U. S. Laws Apply in Host Countries Foreign Corrupt Practices Act, National security laws, Antibiotic law, Extraterritoriality of U.

S. Laws and Antitrust laws 0 00 Foreign Corrupt Practices Act Makes it illegal for companies to pay bribes to foreign officials, candidates, or political

parties 0 00 National security laws Prohibit a U. S. Company, its subsidiaries, Joint ventures, or licensees to sell controlled products without special permission from the U. S. Antibiotic law U. S. Companies are forbidden to participate in any unauthorized foreign boycott. Required to report any request to cooperate with a boycott Extraterritoriality of U. S. Laws Especially important to U. S. Multinational firms.

Foreign governments fear the influence of American government policy on their economies through U. S. Multinationals What is illegal for an American business at home can also be illegal by U. S. Law in foreign Jurisdictions for the firm, subsidiaries and licensees of U. S. Technology Cybercafé - Unresolved Issues Supersaturates (CSS), Taxes, and Jurisdiction of disputes and validity of contracts Taxes In the past, a company was deemed to have a taxable presence in a country if it had a permanent establishment there The E Commission Proposes value-added tax (VAT) Jurisdiction of disputes and validity of contracts

The EX. Commission has adopted an e-commerce directive that will permit online retailers to trade by the rules of their home country unless the seller had enticed or approached the consumer by way of advertising

Supersaturates buy and register descriptive nouns, geographic names, and names of ethnic groups and pharmaceutical substances, and other similar descriptors and hold them until they can be sold at an inflated price

Businesses face a multitude of problems in their efforts to develop successful marketing programs Varying legal systems of the world and their effect on business orientations Legal questions must also be considered Jurisdictional and legal recourse in disputes. Protection of intellectual property rights.

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Extended U. S. Law enforcement Enforcement of antitrust legislation by U. S. And foreign governments SQ . International marketing research and market research are Synonymous, since the research process is basically the same whether applied in USA. , U. K. , Japan or India? ” Critically examine this statement. Marketing research process Stage 1: Formulating the Marketing Research Problem Formulating a problem is the first step in the research process. In many ways, research starts with a problem that management is facing. This problem needs to be understood, the cause diagnosed, and solutions developed. However, most management problems are not always easy to research. A management problem must first be translated into a research problem. Once you approach the problem from a research angle, you can find a solution. For example, “ sales are not growing” is a management problem.

Translated into a research problem, we may examine the expectations and experiences of several groups: potential customers, first-time buyers, and repeat purchasers. We will determine if the lack of sales is due to: ; Poor expectations that lead too general lack of desire to buy, or ; Poor performance experience and a lack of desire to repurchase. What then is the difference between a management problem and a research problem?

Management problems focus on an action. Do we advertise more? Do we change our advertising message? Do we change an under-performing product configuration? If so, how? Research problems, on the other hand, focus on providing the information you need in order to solve the management problem. Stage 2: Method of Inquiry

The scientific method is the standard pattern for investigation. It provides an opportunity for you to use existing knowledge as a starting point and proceed impartially. The scientific method includes the following steps: 1. Formulate a problem 2. Develop a hypothesis 3. Make predictions based on the hypothesis 4. Devise a test of the hypothesis 5. Conduct the test 6. Analyze the results The terminology is similar to the stages in the research process. However, there are subtle differences in the way the steps are performed. For example, the scientific method is objective while the research process can be subjective. Objective-based research (quantitative research) relies on impartial analysis.

The facts are the priority in objective research. On the other hand, subjective-based research (qualitative research) emphasizes personal judgment as you collect and analyze data. Stage 3: Research Method In addition to selecting a method of inquiry (objective or subjective), you must select a research method. There are two primary methodologies that can be used to answer any research question: experimental research and non-experimental research. Experimental research gives you the advantage of controlling extraneous variables ND manipulating one or more variables that influences the process being implemented. Non-experimental research allows observation but not intervention.

You simply observe and report on your findings. Stage 4: Research Design The research design is a plan or framework for conducting the study and collecting data. It is defined as the specific methods and procedures you use to acquire the information you need. Stage 5: Data Collection Techniques Your research design will develop as you select techniques to use. There are <https://assignbuster.com/the-legal-environment-of-foreign-marketing/>

many ways to collect data. Two important methods to consider are interviews and observation. Interviews require you to ask questions and receive responses. Common modes of research communication include interviews conducted face-to-face, by mail, by telephone, by email, or over the Internet.

This broad category of research techniques is known as survey research. These techniques are used in both non-experimental research and experimental research. Another way to collect data is by observation. Observing a person's or company's past or present behavior can predict future purchasing decisions. Data collection techniques for past behavior can include analyzing company records and reviewing studies published by external resources. In order to analyze information from interview or observation techniques, you must record your results. Because the recorded results are vital, measurement and development are closely linked to which data collection techniques you decide on.

The way you record the data changes depends on which method you use.

Stage 6: Sample Design Your marketing research project will rarely examine an entire population. It's more practical to use a sample-? a smaller but accurate representation of the greater population. In order to design your sample, you must find answers to these questions: 1. From which base population is the sample to be selected? 2. What is the method (process) for sample selection? 3. What is the size of the sample? Once you've established who the relevant population is (completed in the problem formulation stage), you have a base for your sample. This will allow you to make inferences about a larger population.

There are two methods of selecting a sample from a population: probability or non-probability sampling. The probability method relies on a random sampling of everyone within the larger population. Non-probability is based in part on the judgment of the investigator, and often employs nonvolunteer samples, or by other sampling methods that do not rely on probability. The final stage of the sample design involves determining the appropriate sample size. This important step involves cost and accuracy decisions. Larger samples generally reduce sampling error and increase accuracy, but also increase costs. Stage 7: Data Collection Once you've established the first six stages, you can move on to data collection.

Depending on the mode of data collection, this part of the process can require large amounts of personnel and a significant portion of your budget. Personal (face-to-face) and telephone interviews may require you to use a data collection agency (field service). Internet surveys require fewer personnel, are lower cost, and can be completed in days rather than weeks or months. Regardless of the mode of data collection, the data collection process introduces another essential element to your research project: the importance of clear and constant communication. Stage 8: Analysis and Interpretation In order for data to be useful, you must analyze it.

Analysis techniques vary and their effectiveness depends on the types of information you are collecting, and the type of measurements you are using. Because they are dependent on the data collection, analysis techniques should be decided before this step. Stage 9: The Marketing Research Report

The marketing research process culminates with the research report. This report will include all of your information, including an accurate description

of your research process, the results, conclusions, and recommended courses of action. The report should provide all the information the decision maker needs to understand the project. It should also be written in language that is easy to understand. It's important to find a balance between completeness and conciseness.

You don't want to leave any information out; however, you can't let the information get so technical that it overwhelms the reading audience. One approach to resolving this conflict is to prepare two reports: the technical report and the summary report. The technical report discusses the methods and the underlying assumptions. In this document, you discuss the detailed findings of the research project. The summary report, as its name implies, summarizes the research process and presents the findings and conclusions as simply as possible. Another way to keep your findings clear is to prepare several different representations of your findings. Powering presentations, graphs, and face-to-face reports are all common methods for presenting your information.