

## General Nature of Commercial Relationships: Suppliers

Notes

1. Are the products/services themselves, commercial contract terms, regulatory context, or other factors involved highly technical or specialized?  
*Check if yes.*

a. If litigated, would expert witnesses be essential?  
*Check if yes.*

b. Could expert mediators/arbitrators be more efficient or useful?  
*Check if yes.*

2. Do your suppliers tend to have more bargaining power over you?  
*Check if yes, leave empty if you tend to have more bargaining power.*

a. Are your suppliers generally large companies with substantial resources?  
*Check if yes. Write how many of your suppliers are smaller companies and how many are large companies in the Notes section to the right.*

b. Are there individual suppliers that represent a high proportion of total operating costs?  
*Check if yes.*

c. Are the supplier relationships typically long-term?  
*Check if yes, leave empty if suppliers change frequently.*

d. Are the suppliers specialized?  
*Check if yes, leave empty if the suppliers are commoditized.*

i. Are there few potential commercial alternatives to current suppliers?  
*Check if yes, leave empty if there are many alternatives to current suppliers.*

ii. Are the switching costs to replace individual suppliers significant?  
*Check if yes.*

3. Do you have a sense of "investment" in any of the suppliers having knowledge of your business and needs?  
*Check if yes.*

General Nature of Commercial Relationships: Suppliers (cont.)	Notes
<input type="checkbox"/> 4. Are your suppliers geographically dispersed? <i>Check if yes, leave empty if your suppliers are local.</i>	
<input type="checkbox"/> a. Are your suppliers located internationally? <i>Check if yes, leave empty if your suppliers are located domestically. Write any applicable countries in the Notes section to the right.</i>	
<input type="checkbox"/> b. Are the courts and the application of the rule of law reliable where your suppliers are located? <i>Check if yes.</i>	
<input type="checkbox"/> 5. Do your supplier relationships involve sensitive commercial information, trade secrets, or intellectual property? <i>Check if yes.</i>	
<input type="checkbox"/> 6. Would public disclosure of a dispute disproportionately harm or benefit one side of the other? <i>Check if yes.</i>	

General Nature of Commercial Relationships: Customers	Notes
<input type="checkbox"/> 1. Are the products/services themselves, commercial contract terms, regulatory context, or other factors involved highly technical or specialized? <i>Check if yes.</i>	
<input type="checkbox"/> a. If litigated, would expert witnesses be essential? <i>Check if yes.</i>	
<input type="checkbox"/> b. Could expert mediators/arbitrators be more efficient or useful? <i>Check if yes.</i>	
<input type="checkbox"/> 2. Do your customers tend to have more bargaining power over you? <i>Check if yes, leave empty if you tend to have more bargaining power.</i>	
<input type="checkbox"/> a. Are your customers generally larger companies with substantial resources? <i>Check if yes. Write how many of your customers are smaller companies and how many are large companies in the Notes section to the right.</i>	
<input type="checkbox"/> b. Are there individual customers that represent a high proportion of total operating revenues? <i>Check if yes.</i>	
<input type="checkbox"/> c. Are the customer relationships typically long-term? <i>Check if yes, leave empty if customers change frequently.</i>	
<input type="checkbox"/> d. Is the product/service you provide highly specialized? <i>Check if yes, leave empty if the product/service you provide is commoditized.</i>	
<input type="checkbox"/> i. Are there few potential commercial alternatives to your product/service? <i>Check if yes, leave empty if there are many alternatives to your company.</i>	
<input type="checkbox"/> ii. Are the startup costs to replace you as a product/service significant? <i>Check if yes.</i>	
<input type="checkbox"/> 3. Do you have a sense of “investment” in any of your customers having knowledge of your business and needs? <i>Check if yes.</i>	

General Nature of Commercial Relationships: Customers (cont.)	Notes
<input type="checkbox"/> 4. Are your customers geographically dispersed? <i>Check if yes, leave empty if your customers are local.</i>	
<input type="checkbox"/> a. Are your customers located internationally? <i>Check if yes, leave empty if your customers are located domestically. Write any applicable countries in the Notes section to the right.</i>	
<input type="checkbox"/> b. Are the courts and the application of the rule of law reliable where your customers are located? <i>Check if yes.</i>	
<input type="checkbox"/> 5. Do your customer relationships involve sensitive commercial information, trade secrets, or intellectual property? <i>Check if yes.</i>	
<input type="checkbox"/> 6. Would public disclosure of a dispute disproportionately harm or benefit one side of the other? <i>Check if yes.</i>	

## History of Disputes

## Notes

1. What is your historical frequency of disputes?  
*Enter quantity in Notes section to the right.*

2. What is the typical dollar value of your disputes?  
*Enter quantity in Notes section to the right.*

## History of Resolutions

## Notes

1. How many of the disputes were litigated to judgement?  
*Enter quantity in Notes section to the right.*

2. How many of the disputes were litigated then settled?  
*Enter quantity in Notes section to the right.*

3. How many of the disputes were settled through formal negotiations or discussions?  
*Enter quantity in Notes section to the right.*

4. How many of the disputes were settled informally?  
*Enter quantity in Notes section to the right.*

5. In how many of the disputes were you satisfied with the overall process? (Not necessarily the outcome)  
*Enter quantity in Notes section to the right.*

ADR vs. Litigation	Notes
<input type="checkbox"/> 1. Is a “winner take all” solution preferable to a compromise? <i>Check if yes.</i>	
<input type="checkbox"/> 2. Is there likely to be a legal principle or precedent at stake? <i>Check if yes.</i>	
<input type="checkbox"/> 3. Is it important to maintain control over the outcome? <i>Check if yes, leave blank if maintaining control over the outcome isn't high-importance for you.</i>	
<input type="checkbox"/> 4. Is speed/timing of a resolution important to you? Compare to the court docket in the most likely relevant jurisdiction(s). <i>Check if yes.</i>	
<input type="checkbox"/> 5. Is there a legal precedent or interpretation needed that will impact more than the immediate dispute and parties? E.g. the interpretation of a relevant statute or regulation. <i>Check if yes.</i>	
<input type="checkbox"/> 6. Are there commercial opportunities that could be included in an ADR solution that would not be part of a litigated outcome? <i>Check if yes.</i>	
<input type="checkbox"/> 7. Is discovery important to the resolution of the dispute? <i>Check if yes, leave blank if discovery isn't expected to be needed or it is not expected to take much time.</i>	
<input type="checkbox"/> 8. Does one party need discovery processes more than the other? <i>Check if yes.</i>	
<input type="checkbox"/> 9. Is injunctive relief likely to be needed? <i>Check if yes.</i>	
<input type="checkbox"/> 10. Is a local court order, an arbitral award, or a mediated settlement likely to be enforceable in this dispute? Keep in mind New York Convention enforceability of arbitral awards and expanding the use of Singapore Convention on Mediation for mediated agreements? <i>Check if yes.</i>	
<input type="checkbox"/> 11. Would the opportunity to appeal be important in this dispute? <i>Check if yes.</i>	
<input type="checkbox"/> 12. If litigated, would there likely be claims included that offer a windfall to one party? E.g. punitive or treble damages. <i>Check if yes.</i>	

Other Factors	Notes
<input type="checkbox"/> 1. Is it important to retain or maintain the commercial relationship(s) at stake? <i>Check if yes, leave empty if relatively unimportant.</i>	
<input type="checkbox"/> a. Is that view essentially the same on both sides? <i>Check if yes, leave empty if you believe the importance is imbalanced.</i>	
<input type="checkbox"/> 2. Are hybrid solutions like dispositive mini-trial on specific issues coupled with mediation/negotiation viable alternatives? <i>Check if yes.</i>	
<input type="checkbox"/> 3. Is your attitude toward ADR generally pro? <i>Check if yes or open to discussion, leave empty if con. Elaborate in Notes.</i>	
<input type="checkbox"/> 4. Do you believe the attitude toward ADR on the other side of the commercial relationship is generally pro? <i>Check if yes or open to discussion, leave empty if con. Elaborate in Notes.</i>	
<input type="checkbox"/> 5. Are there personal relationships at senior management levels between potential parties in this dispute? <i>Check if yes and write those relationships in Notes.</i>	
<input type="checkbox"/> a. Is it a relatively insular commercial context, in which management all know one another and reputations might be important? <i>Check if yes.</i>	
<input type="checkbox"/> 6. Would it be difficult to integrate ADR with broader company risk management strategies? <i>Check if yes.</i>	