

ANTITRUST GLOBAL CODE OF CONDUCT



Prysmian
Group

1. INTRODUCTION: PURPOSE OF THE DOCUMENT

Competition rules (also referred to as antitrust rules) hold a central role in regulating the activity of businesses operating in all sectors of the economic sphere.

Infringement of competition rules may expose businesses to very high administrative penalties and to orders for damages in civil proceedings, in addition to severely harm their reputation.

In certain jurisdictions, employees are exposed to criminal sanctions, including imprisonment.

Undertakings must therefore operate on the market in full compliance with competition rules, and must avoid to put in place, from one side, collusive behavior aimed, in particular, at market sharing or price fixing (agreements) and, from the other side, unilateral behavior which, by exploiting market power, are aimed at excluding competitors from the market or at making extra profits detrimental to consumers (monopolisation conducts or abuses of dominance).

A sound knowledge of the main rules concerning anticompetitive offences and the related proceedings is therefore essential both for managers as well as for a considerable number of personnel working in all businesses, independently of the sector of activity. Considering its global presence on the market and the increasing attention paid by the competition authorities on the markets where it operates, such a knowledge is of particular importance for Prysmian.

In this perspective, Prysmian has conducted an antitrust compliance programme aimed, *inter alia*, at disseminating the knowledge of antitrust rules amongst all those who operate within the Group. In the context of this programme, all managers and staff employed by the Group companies will have to commit themselves to fully comply with antitrust rules in the performance of their activities.

The Antitrust Code of Conduct constitutes an integral part of the compliance program and aims to provide a general overview of problems relating to the application of antitrust principles, with specific reference to agreements restricting competition and abuses of dominant position.

2. THE PURPOSE OF COMPETITION LAW

The purpose of competition rules is to make sure companies vigorously and fairly compete with each other. This encourages enterprise and efficiency, creates a wider choice for consumers and helps reduce prices and improve quality.

To achieve this result, companies are supposed to act independently of each other on the market, without limiting their freedom to compete and without sharing commercially sensitive information that would make their future moves more predictable to competitors. For this reason, all contacts with competitors are in principle seen as suspicious.

Additionally, companies holding a monopoly or dominant position should not take advantage of the weaker competition on that market to strengthen their position by imposing unfair conditions to its customers or end-users, or by using tactics that undermine rivals' survival or potential entry in the market.

In sum, competition rules aim at punishing any conduct that may subvert "competition on the merits" in any market. Their main driver is promoting market economics and healthy competition to enhance welfare of consumers, who have to be able to purchase goods and services of the best quality and at the lowest possible price.

This very purpose also justifies, in exceptional instances, cooperation between competitors or unilateral conducts by dominant firms that can clearly enhance efficiency and benefit consumers, e.g. by favoring innovation or increasing choice in the market (such as Research & Development agreements).

3. BASIC NOTIONS OF ANTITRUST

The following basic notions are key to understand antitrust rules:

Independent undertakings / firms: Antitrust rules may apply to any entities carrying out an independent economic activity, irrespective of its legal status or the way in which it is financed.

This concept may include all companies which respond to a single coordination and management centre, effectively depriving (or significantly limiting) them of decisional independence on issues of strategic importance (as may occur, for example, in Prysmian Group of companies).

This "extended" concept of undertaking implies that antitrust rules do not in principle apply to agreements between companies that belong to the same group.

Relevant markets: when assessing the anticompetitive effect of any form of conduct, be it an agreement or an abuse of a dominant position/monopolization attempt, we must make reference to a specific market in both its product and geographic dimension which represent the appropriate frame of reference to assess the conduct in question.

With reference to products, the relevant market comprises all those products and/or services which are regarded as interchangeable or substitutable by the consumer, by reason of their characteristics, prices, or intended use.

The relevant geographic market comprises the area in which the companies concerned are involved in the supply and demand of products or services, and where conditions of competition are sufficiently homogeneous compared to those existing in neighbouring areas.

Restrictive Agreements/Practices: this notion covers any form of agreement or collusion between two or more companies finalized at coordinating their market strategy. Only behavior that can be traced back to independent decisions fall outside of this notion. More specifically, this notion covers:

A. All forms of agreements, whether formal or informal, binding or non-binding, such as informal agreements and gentlemen's agreements that may restrict competition;

B. So called "concerted practices", a form of coordination which, without being embodied in a tangible agreement, constitutes a conscious collaboration between parties in spite of competition. The notion of concerted practice requires: i) the presence of some form of "contact" between companies that allows them to gain knowledge of their respective business strategies, and ii) a direct and tangible impact of such contact on the conduct of involved companies, i.e. that the latter will take into account the information which was exchanged when making their business decisions;

C. Trade association decisions: competition laws do not prohibit companies from attending meetings with competitors in the context of trade associations. However, resolutions are deemed to be agreements restricting competition whenever they induce associates to effectively coordinate their market behavior.

Horizontal Relations / Restrictions: these notion covers horizontal relationships between firms that actually or potentially compete on the same market.

Horizontal restrictions are the most harmful to competition, e.g. if the parties agree to fix prices or output or to share markets, or if the co-operation enables the parties to maintain, gain or increase market power and thereby is likely to give rise to negative market effects with respect to prices, output, product quality, product variety or innovation. Any form of coordinated behavior related to participation in tenders

potentially represent a horizontal restriction of competition. Horizontal cooperation may however result in precompetitive outcomes in specific circumstances and are allowed under certain strict circumstances: notable examples are in the field of research and development, joint production, joint purchasing, product standardisation.

Special attention must be paid to in order to ensure compliance with antitrust regulations whenever participating in a tender (e.g. those that will be announced in coming years for the award of new cable production and/or installation projects), especially if participating in a consortium (e.g. by establishing temporary company associations – TCA). In effect, an agreement between two competing companies regarding joint participation in a tender is potentially capable of leading to a coordination of their competitive behavior. The immediate consequence of this form of coordination is a reduction of the number of tender participants. Generally speaking, joint participation in tenders is discouraged; especially whenever it involves two or more companies that, by themselves, could meet the technical and financial requisites needed to participate in the tender on a stand-alone basis. Of course, apart from these considerations of a general nature, it is necessary to proceed to a case-by-case analysis

Vertical Relations / Restrictions: these relations are between firms that operate at different levels of the production or distribution chain, for instance distribution agreements between manufacturers and wholesalers or retailers. Though in general they are less harmful than horizontal agreements, even vertical agreements may include provisions that are forbidden if there is some degree of market power at the level of the supplier or the buyer or both, insofar as they restrict the commercial freedom of any of its parties without any justification (e.g. when a supplier imposes prices or discounts to its distributors or prevents them from selling products on the internet, or limit rivals access to customers through exclusivity clauses covering a large part of the market). The most common vertical agreements are however considered pro-competitive even if they limit to some extent the parties' ability to freely compete. Common examples include licensing, distribution (exclusive and selective), purchase and franchising agreements.

Dominant position: An "undertaking/firm is deemed to be in a "dominant position" whenever it is in the condition to:

- (i) behave independently of competitors, clients and consumers by virtue of the position it holds on the relevant market;
- (ii) significantly influence the actions of competitors on the relevant market and/or hinder the entry of new players into the same market.

The existence of a dominant position is usually indicated by the presence of large market shares. The holding of a dominant position is not unlawful. Only its abuse is sanctioned by competition law (see below).

Abuse of dominant position: a dominant firm, by virtue of its powerful position, is burdened with a special responsibility to guarantee and maintain competition within the relevant market it dominates. In practice, this means that

- it cannot impose unfair terms on its customers, either by exploiting its position (e.g. excessive prices) or by extending its position into other markets, for instance through strategies consisting of tying (i.e. by making the sale of the dominated product conditional upon the purchase of another product) or bundling the products;
- it cannot discriminate among customers;
- although it can lawfully compete against its competitors, it cannot act too "aggressively", in a way that could prevent as efficient competitors from profitably operating in the market, e.g. by applying below cost ("predatory") prices or discounts, or by preventing them from having access to essential inputs or to a large portion of customers.

Merger Control Review: This notion is generally meant to cover the prior review by competition authorities of the effects of certain proposed transactions on competition. The following are transactions typically subject to merger control review, provided they meet given jurisdictional criteria:

- mergers between independent firms;
- acquisitions of a business;
- acquisition of control or significant interests conferring a certain degree of influence on commercially strategic decisions;
- creation of structured joint ventures.

The parties are not allowed to exchange information or to implement the transaction until clearance is received by the relevant competition authorities. Infringing this rule can result in serious penalties for the companies involved. Where the proposed transactions (also generally referred to as “concentrations”) lead to significant lessening of competition, antitrust authorities can either prohibit them or impose conditions and amendment in order to remedy their anticompetitive effects.

4. POWERS OF INQUIRY OF COMPETITION AUTHORITIES

Enforcement of competition rules is generally performed by independent and highly sophisticated public authorities, with ample powers of investigation including:

– *the power to conduct inspections* without notice on any company premises, individual or legal persons that are deemed to be in possession of any documents that may be relevant to a preliminary investigation. When executing an inspection, competition authorities usually avail themselves of the collaboration of police officers which, in case of resistance, have the power to force access to offices, rooms, cabinets, computers etc. Furthermore, they may also affix seals whenever deemed necessary to ensure performance of an inspection, or in order to prevent any potential tampering (e.g. when inspections last more than one day).

Managers and employees of the company subject to inspection must cooperate with officers. The unjustified refusal to supply information or disclose documents that are relevant to the preliminary investigation or the rendering of untruthful information is punishable by specific sanctions and can be deemed an aggravating circumstance in the assessment of competition laws infringements.

- *Power to request information.* Any company receiving such request must reply in a full and truthful manner or face sanctions. Since requests are largely used as a tool to obtain information aimed at opening or carrying out an investigation, replies should be studied with particular care.

- *Exchange of information between competition authorities.* Competition authorities have protocols for exchanging information among each other. In case of infringements covering several jurisdictions, proceedings are generally coordinated among the relevant competition authorities.

- *Leniency programmes.* Most competition authorities grant benefits (immunity or considerable reduction of applicable sanctions) to those companies that supply information for the identification and sanction of secret cartels (which aim at fixing prices, sharing markets or following through with other serious forms of anticompetitive conduct). This has proved a powerful tool to unveil cartels in recent years.

Limits to the powers of inquiry:

- Self-incrimination is generally prohibited. Competition authorities cannot force the alleged transgressor to admit the existence of transgression by rendering testimony against himself.
- Client-lawyer privilege. In most jurisdictions, competition authorities cannot request the production of correspondence with external legal counsel or prepared at its request for the purpose of exercising defence rights in proceedings.

5. CONSEQUENCES OF THE INFRINGEMENT OF COMPETITION RULES

Sanctions

Any company responsible for infringement of competition law is subject to the penalty of considerable monetary sanctions. In some jurisdictions, this can reach 10 % of the value of turnover of the last year at corporate group level.

Penalties for managers and employees

In some jurisdictions, such as US and the UK, manager and employees are held accountable for breach of competition rules. This can result in either monetary penalties or, in most serious instances, in their imprisonment.

Invalidity of restrictive agreements and clauses

Depending on the jurisdictions, agreements infringing competition law may be null and void and therefore ineffective.

Compensation for damages

Violation of these rules may also lead to claims for damages (in civil court) filed by customers, competitors or consumers damaged by the unlawful conduct, as well as by a party to the anticompetitive agreement that is deemed not to be accountable for the offence (for example, the licensee of a company wielding significant market power).

Plaintiffs are encouraged by some local laws to bring damage claims against cartel infringements that have been sanctioned by a competition authority as they can benefit from rules facilitating the proof of harm suffered as a result of the antitrust infringement.

Damages are normally calculated as a percentage of the value of the sales/projects concerned by the anticompetitive conducts and in some jurisdictions (such as US), are even enhanced to increase the deterrent effect of competition rules.

Damage to company's image and reputation

A growing perception of the gravity of infringement of competition rules entails that these have a negative impact on company image and reputation both vis-à-vis customers and the general public. Decisions that ascertain infringements are generally widely broadcasted by mass media and are normally published by the relevant authorities.

6. GUIDING PRINCIPLES

Principles of behavior for relationships with competitors

The following principles of conduct should be observed when dealing with competitors:

a) Prior submission to the local Corporate Affairs Dept., if present, or the external legal advisor of the company of all issues potentially relevant to competition laws, bearing in mind that the following is prohibited: coordination of prices, business policies and strategic decisions; sharing of markets, clients, production and sales quotas; limitations on production or market access/sources; exchange of information concerning business policies.

b) Careful verification of the form and content of any communication and/or unilateral statement (e.g. letters, e-mails, internal memos). These must not be susceptible to being interpreted as evidence of the presence of anticompetitive agreements; for example, by raising suspicion of having received and/or having transmitted confidential information to competitors.

c) In meetings with competitors, even when they take place in the context of trade associations or other legitimate contexts, always follow a previously agreed agenda. Discussions must never deal with:

- issues concerning prices, discounts or refunds, costs, quantities produced and sold, supply sources, or any other element referable to the **future** marketing strategies of such parties;
- issues relating to confidential profiles (economic terms, etc.) inherent to relations with resellers, suppliers or distributors;
- information relating to the identity of clients and any other confidential information relating to clientele;
- business, investment or advertising strategies;
- collective actions (e.g. collective refusals to contract with a specific client and collective refusal to accept certain contractual terms are prohibited).

d) Should any such issue be dealt with during a meeting (or placed on the agenda of a trade association) immediate opposition must be raised against the same, insisting that it not be discussed (and be removed from the agenda). If opposition fails, the meeting must be abandoned immediately, making sure that both objections and abandonment of the meeting are formally recorded.

This latter precaution is very important insofar as a company may be held responsible for breaches arranged by others in the event that it was aware of collusion and nonetheless accepted the consequences. In other words, even a company who passively attends an anti-competition meeting may be held responsible for the agreement; unless it proves that it expressed its dissent and then formally abandoned the meeting.

e) Trade associations are deemed by competition authorities to be preferred forums for the exchange of confidential information and consequently are often targeted for inspection, therefore employees attending such meetings should strictly comply with the following rules of behavior:

- in the event of any doubt concerning compliance with antitrust regulations, issues subject to discussion must first be submitted to the local Corporate Affairs Dept., if present, or the external legal advisor of the company;
- observance of rules of conduct defined in the above point d) whenever the meeting concerns issues defined in point c);
- the local Corporate Affairs Dept., if present, or the external legal advisor of the company must be promptly informed about any meeting where issues (even when not included on the meeting's agenda) that may be subject to antitrust regulations were discussed;
- the local Corporate Affairs Dept., if present, or the external legal advisor of the company will then be in a position to take any necessary initiative.

f) Coordination between competing companies is forbidden when it concerns participation in **tenders**. More specifically, any exchange of information concerning bidding terms, as well as the decision of whether to participate in the tender, is prohibited.

The above being true, the following are generally allowed:

- Discussion of issues relating to client solvency and reliability with competitors; however, also in this case it is recommendable to previously seek the advice of the local Corporate Affairs Dept., if present, or the external legal advisor of the company;
- Acquisition of data relating to prices applied by competitors by visiting resellers or distributors;
- Use of data relating to prices made known to the public and any other information relating to competitors that is freely available;
- Exchange of statistic information when it contains aggregate data that does not allow for the identification of the source company.

However, given the inherent difficulty of understanding the antitrust consequences of information exchanges with competitors, prior consultation with the local Corporate Affairs Dept., if present, or the external legal advisor of the company is always advisable.

Principles of behavior in vertical relations (not in all jurisdictions)

In light of the antitrust principles that apply to vertical relations, the following standards of conduct should be complied with:

- a) abstain from imposing minimum resale price;
- b) abstain from exerting pressure (or supplying incentives) aimed at making the distributor comply with a recommended retail price ("**RRP**");
- c) refrain from following up on complaints concerning excessive price discounts applied by other distributors (of the same products/services of the same producer);
- d) where needed, verify with the local Corporate Affairs Dept., if present, or the external legal advisor of the company if the web site of the company or if other communications directed to distributors contain indications which could be considered as a prohibition of promoting and selling products via internet.
- e) the inclusion in the contract of non-competing clauses or similar provisions must be carefully assessed with the local Corporate Affairs Dept., if present, or the external legal advisor of the company.
- f) whenever a system of selective distribution is adopted, verify criteria for the selection of distributors with the local Corporate Affairs Dept., if present, or the external legal advisor of the company.

Principles of behavior for the company holding a dominant position

First of all it should be established whether, with reference to a specific product or service, the market position of the interested Prysmian Group company qualifies as a dominant position. Contact the local Corporate Affairs Dept., if present, or the external legal advisor of the company for any related matter.

In relation to products or services sold in the market dominated by the company, the following rules of behavior should be complied with:

- a) do not force clients to buy exclusively or mostly from the company;
- b) do not grant discounts or incentives which are: (i) not connected to quantitative aspects only; (ii) granted on a timeframe of more than three months; (iii) retroactive; (iv) not connected to cost savings;
- c) do not grant incentives or discounts not pre-emptively approved by the local Corporate Affairs Dept., if present, or the external legal advisor of the company;
- d) avoid groundless discrimination between clients or between Prysmian Group companies and third-party companies;
- e) ensure that discounts or more advantageous business terms granted to certain clients of Prysmian Group companies are justified by cost savings or gains in efficiency and based on real and transparent criteria;
- f) pre-emptively verify with the local Corporate Affairs Dept., if present, or the external legal advisor of the company any method of promotion that entails the sale of tied products;
- g) pre-emptively evaluate with the local Corporate Affairs Dept., if present, or the external legal advisor of the company any potential refusal to supply to current clients or to companies that require such supplies in order to operate on a market where they are in competition with Prysmian Group companies;
- h) pre-emptively evaluate with the local Corporate Affairs Dept., if present, or the external legal advisor of the company the methods used to determine prices for products or services whenever such prices are excessively high or excessively low compared to production costs and/or market value.
- i) in any of the cases above and where the circumstances so require, refer to the local Corporate Affairs Dept., if present, or the external legal advisor of the company.

Principles of behavior pending merger control review

Even after the signing of a transaction agreement, but until antitrust clearance is obtained and the deal is closed, the parties must operate independently in a "business as usual" mode and any commercial, marketing and operating steps taken must be the result of unilateral decisions. Moreover, exchange of competitively sensitive information is not allowed. In particular:

- a) Do not communicate or suggest that the other party must be considered as part of your group.
- b) Do not avoid competing for any contracts for which you would have competed absent the transaction.
- c) Do not direct a customer or potential customer to the other party.
- d) Do not refrain from soliciting new customers that you would have solicited or competed for in the absence of the transaction.
- e) Do not negotiate new agreements with the other party without prior advice from the local Corporate Affairs Dept., if present, or the external legal advisor of the company.

Principles of behavior during competition authorities' inspection

In the event of investigation by a competition authority, any employee should:

- immediately inform the local Corporate Affairs Dept., if present, or the external legal advisor of the company and the head of the company department subject to investigation. In any event immediately inform also the Group Corporate Affairs Department. A representative of the local Corporate Affairs Department, if present, the head of the interested company department and, when possible, an external counsel must promptly reach the offices subject to inspection and follow the entire inspection proceedings.
- ascertain (in the event of delay of intervention by representatives of the Corporate Affairs Department and/or of the external counsel) the subject matter, purpose and, above all, the parties addressed by the proceedings who must be indicated in the document that the officers must produce and deliver a copy at the beginning of the mentioned proceedings.
- watch over proceedings (in the event of delay of intervention by representatives of the local Corporate Affairs Dept., if present, or the external legal advisor of the company and in any case as support to the same) to ensure, during each stage of the proceedings, full identity between subject matter and the parties addressed by the proceedings and the single acts of the proceedings (for example, in the event of inspection proceedings that address restrictive practices relating to product A, the examination of documents relating to product K would not be allowed);
- grant officer access to any documents that have been lawfully requested, including photocopies or digital copies of the same.

7. DOCUMENT CREATION

When creating any document, remember that if an allegation were to be raised against Prysmian, that document could be a piece of evidence. To avoid misunderstandings from an external party reading an email, text, or other message, keep in mind the following techniques when creating any document:

- Avoid speculation or exaggeration
- Be clear and concise
- Be factual and business like
- Do not use inflammatory or extravagant language
- Avoid humor
- Always indicate the source of the information (i.e., publications, customers, suppliers, etc.)
- Write any document with the idea that it could become public – if you would not want to see what you have written on the front page of a newspaper or headlining the internet, you should not be writing it
- Remember, all documents are retrievable, even if "deleted".

8. IMPLEMENTATION OF ANTITRUST CODE OF CONDUCTS

Distribution and adoption

In conformity with local law and regulations, the Antitrust Code of Conduct applies to all Group Companies in all countries. Where any Prysmian Company is bound by local requirements that require a higher standard than the one prescribed by this Policy, or are more restrictive, these local standards shall be adhered to.

Communication and training

Antitrust Code of Conduct training is essential to develop and foster a culture of compliance across the organization. Building awareness and understanding of compliance to laws, regulations, Code of Ethics and Compliance Policies and Procedures across the Group is a major goal of the Compliance Management System pursuant to Prysmian Global Compliance Policy and shall be developed, at multiple levels, in cooperation with Local Compliance, HR Department and the Management.

Disciplinary measures

Based on investigation results, HR Department is responsible for taking appropriate disciplinary action against employees who are found to have engaged in misconduct, in accordance with relevant regulations.

Antitrust Code of Conduct Update and Approval

The Antitrust Code of Conduct is updated by Group Compliance in cooperation with Group Corporate Affairs and approved by the Board of Directors.

Policy Approved by: Prysmian S.p.A. Board of Directors

Date Approved: 12 November 2019