

Competition Compliance Guidelines

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The Competition Compliance Guidelines (CCG) are applied in different contexts as part of WAB's work.

Application

1. They serve as the basis of the Working Groups' tasks and are laid out there from the outset.
2. They are laid out for WAB events.
3. WAB members and other interested parties can view them on the website and at experts.wab.

Competition Compliance Guidelines (CCG) – guidelines for fair competition

Background and information

- The CCGs are based on current EU competition law.
- Why is compliance so important?
 - With its CCGs, WAB supports fair competition in a free market on behalf of its members.
 - The success of the association's work depends largely on the reputation of the association.
 - CCGs prevent misconduct which can lead to the loss of credibility or reputation.
- Which sanctions are risked in the case of legal violations?
 - Fines, compensation for damages, loss of tax privileges
 - Image damage that can lead to resignation from the association
 - Sanctions affect not only the association – they can also have serious consequences for employees.

The legal basis of the Competition Compliance Guidelines (CCG) is the Treaty on the Functioning of the European Union, Article 101

Legal basis of the CCG

- (1) ... prohibited as incompatible with the internal market: **all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market...**
- (2) **Any agreements or decisions prohibited pursuant to this Article shall be automatically void.**
- (3) The provisions of Paragraph 1 may, however, **be declared inapplicable** in the case of:
- any **agreement** or category of agreements **between undertakings**,
 - any **decision** or category of decisions by **associations of undertakings**,
 - any **concerted practice** or category of concerted practices, which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:
 - a) **impose on the undertakings concerned** restrictions which are not indispensable to the attainment of these objectives;
 - b) **afford such undertakings the possibility** of eliminating competition in respect of a substantial part of the products in question.

WAB's CCGs are divided into fundamental and potential violations

Fundamental violations are agreements on:

- 1 Prices
- 2 Allocation of markets according to
 - territory
 - customers
- 3 Business terms and conditions influencing competition
- 4 Bidder and tendering procedures
- 5 Joint boycotting of other market participants

Potential violations

- 1 Exchange of confidential information on customers, pricing, market strategy and salary structure
- 2 Lobbying which overrides the separation between regulators and the regulated
- 3 The setting of standards:
 - in exclusive and opaque procedures
 - if they limit or exclude other participants or products from the market
- 4 Certification
 - with unobjective criteria
 - which limits competition

WAB's Competition Compliance Guidelines – mode of conduct

Desired activities

- There is transparent circulation and free use of information within WAB's working groups and specialist groups.
- Each participating member is free to use that information.
- Lobbying goals are defined to benefit the entire industry.
- Discussion is led on techno-logical advances in view of their better usability.
- The industry's public image improves.
- Outcomes and solutions are made transparent.
- Participants are reminded of the CCGs at the start of each meeting.
- The minutes taken of the meeting are genuinely informative.

Prohibited activities

- Agreements on current or future pricing policies
- Setting of quotas and amounts
- Setting of profit margins
- Agreements on market allocation according to
 - territory
 - customers
- Agreements on planned rebates and marketing campaigns
- Agreements on planned market launches
- Agreements on planned investments
- Agreements on business conditions that influence competition

Competition Compliance Guidelines (CCG) – guide points on the relationship between WAB staff/management and WAB members

Dealing with invitations and contributions

- The granting and accepting of gifts and hospitality may be done only on work-related occasions.
- The giving and receiving of cash and similar contributions is not allowed in any case.
- The acceptance of low-value promotional gifts closely related to the WAB association or a member's product is basically low in risk.
- Regarding hospitality invitations, the standard for accepting the invitation is whether the invited person would visit the selected restaurant at his/her own private expense. If not, the invitation poses a high risk of compromising WAB's integrity.
- Fees for lectures and expert opinions or similar services must be proportionate to the services rendered.
- The granting of gifts or courtesies to civil servants and persons treated as such is subject to stricter rules, which have priority.
- Gifts and other benefits must on principle not be given to civil servants.
- Gifts to and from the management must be reported.

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