

Engaging with competitors, industry and lobby groups – guidance for executives

Competition or antitrust law is very concerned about the exchange of competitively-sensitive information between competitors (whether actual or potential competitors).

For example, discussions between competitors about recent, current or future conduct would probably be problematical.

In addition, there is no immunity from the application of competition law simply because the exchange takes place inside a trade association.

What is in scope?

Even once off exchanges have attracted fines. The competition agencies nationally and internationally have investigated potential “price signalling”, “exchange of forecasts” and exchange of statistics between competitors. They have also investigated “industry responses to developments” where such responses have involved collective action by the parties involved.

What procedures should be in place?

Companies should have procedures in place to:

Monitor

what is due to be discussed (and what has been discussed) at association meetings, conferences and conventions

Train

executives on what to do (and not do) when there is an inappropriate exchange of information

Deal

with the follow on consequences of such situations.

What are the penalties?

The penalties for exchanging information in such circumstances can be very severe – fines of up to 10% of previous year’s worldwide turnover apply in Ireland and at the EU level.

Moreover, under Irish law there can be imprisonment for executives of up to ten years and fines of up to five million euro. The penalties are particularly harsh where there is, as a result of the information exchange, there is price-fixing, collective abuse of dominance and so on.

How can we help?

We can advise on putting in place the necessary procedures to ensure compliance. It usually involves a single meeting and the circulation among executives of the relevant material on what to do/what not to do when engaging with competitors but it would be customised for your needs.

For more information

You can contact any member of the A&L Goodbody team



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