

Dos and don'ts for trade associations

What do trade associations need to know about competition law?

Trade associations play an important role in promoting their members' interests. However, if a trade association is used as a means to create or encourage an infringement of competition law, then both the association and its members can face serious consequences.

Do

- remember that the association itself can be liable for breaches of competition law, and that a breach can have both financial and reputational consequences for the association
- establish a competition compliance policy for the association, and make sure members are familiar with it
- forbid members from discussing competitively sensitive information
- require members to leave, and to report to the association or the CMA, any meetings with competitors where competitively sensitive information is discussed
- ensure that any standard contract terms and conditions developed by the association are clear, easily understood, in plain language and fair to consumers
- ensure that rules and admission criteria for the association are transparent, proportionate, non-discriminatory and based upon objective standards
- ensure that the requirements for any quality certification schemes the association operates are fair, reasonable and are available to all businesses that meet them.

Don't

- have rules that prevent the members from taking independent commercial decisions
- let the association be a channel for, or otherwise facilitate, the sharing of competitively sensitive information between members about pricing, customers or output plans
- allow members to discuss competitively sensitive information in or around association events, including in 'unofficial meetings' or at social events
- issue formal or informal pricing or output recommendations to members
- develop association rules or practices that restrict members from advertising their prices or discounts, soliciting for business or otherwise competing with other members
- require members to provide the association with competitively sensitive information, such as information about pricing and/or output intentions
- publish messages suggesting that lower prices means lower quality
- establish irrelevant or arbitrary rules for the admission of new members
- adopt rules that restrict members' advertising and promotional business practices, beyond ensuring such practices are legal, truthful and not misleading
- prevent members from using different contractual conditions from any association-developed standard conditions, if they wish to do so.



What is competitively sensitive information?

Competitively sensitive information covers any non-public strategic information about a business's commercial policy. It includes, but is not limited to, future pricing and output plans. Historical commercial information is far less likely to be competitively sensitive, particularly if individual businesses' commercial activities cannot be identified.

Report a cartel

T: Cartels hotline

020 3738 6888

E: cartelshotline

@cma.gsi.gov.uk

For more information on compliance and leniency:

www.gov.uk/cma

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