

IETA Competition Policy “Do’s and Don’ts”

IETA Secretariat 3 March 2015



DO...



Meeting Preparation

Consult in advance the written agenda describing the subject(s) of the meeting

All agendas should be available to all members that normally attend a meeting (as well as on request) well in advance of the meeting

A staff representative or officer of the Association should normally be present at each meeting

Limit meetings discussions to topics on the agenda

Register any competition concerns or issues to the IETA Secretariat, and consult with the relevant Working Group (co-)chair(s) and /or an IETA Board Member if you have any further questions in relation with competition law.



Recordkeeping

Ensure that minutes do accurately reflect both attendance and discussion of items in the Agenda. Draft minutes should be developed and circulated to attendees before the next meeting. Please take time to review and comment on them.

[Have the relevant body (e.g. taskforce, drafting group, working group) formally approve the minutes at the next meeting, so that they can then be posted on the Association’s internet members site.]

Agendas, minutes and other important documents should be reviewed by the IETA Secretariat and meeting (co-)chair(s) in advance of dispatch.



Vigilance

Ask for discussions about sensitive matters such as suppliers, contractors or customers (see below) to be stopped, so that an appropriate legal review can be made

Ask for meeting activities which appear to violate the competition law guidelines and/or this checklist to be stopped, again so that appropriate legal reviews can be made. Dissociate yourself from any such discussions or activities

Leave any meeting in which any such discussions or activities continue (and have it minuted);



Autorised topics

You are free to discuss about non-confidential and non-commercial technical and / or scientific issues relevant to industry (tax, legislation, quality, health, HSE, corporate, social responsibility, regulatory compliance)

You are free to exchange information about industry institutional relations, general promotional opportunities and public relations activities



DON'T...



Do not, in fact or in appearance, discuss or exchange information which would not be in compliance with competition law.

For example on:

Investment, divestment & futures plans

Information relating to future plans of individual companies concerning investments or divestments (e.g. installation shutdowns, capacity closure, expected use of production capacity, expansion plans or market entry or exit) unless that information is already in the public domain

Intentions to bid or not to bid

Intentions to enter or not certain markets

Distribution or marketing of particular product including new customers.



Pricing information

Individual company or industry prices, price changes, price differentials, margins, price mark-ups, discounts, allowances, credit terms, rebates, commission rates, price changes, terms of sale including enforcing resale prices

Individual company data on costs, production capacity (other than nameplate capacities), inventories, sales

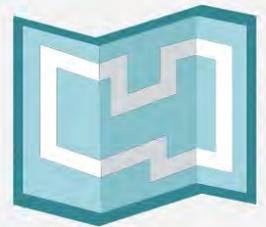


Costs & Production data, including

Plans of individual companies concerning the design, production, distribution or marketing of particular products, including proposed territories or customers

Changes in industry production capacity (other than nameplate capacities) or inventories and the like

Overhead or distribution costs, costs accounting formulas, methods of computing costs



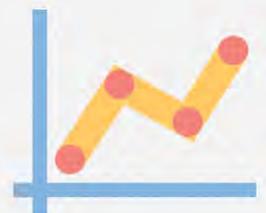
Market information

Company bids and procedures for responding to bid invitations

Matters relating to actual or potential individual suppliers or customers or to business conduct of firms toward them

The identity of customers or suppliers which may be not authorised by your Company or Organisation

Territorial allocations or the concept of "home" markets.



Transportation rates

Rates or rate policies for individual shipments, zone prices, freight etc.



And finally...



Be sensitive to appearances created through contacts with competitors

Be careful not to disclose data submitted in confidence to IETA, unless (1) it does not reveal the identity of any individual participant or 2) it is in aggregated form which does not permit data of any individual participant to be deduced from the aggregated data

At social gatherings, limit discussions to social rather than business issues, unless the information is already in the public domain.

COMPETITION LAW GUIDELINES

IETA is a business-led association, which has been the leading voice of the business community on the subject of carbon markets since 1999. IETA's 130 member companies include some of the world's leading corporations, including global actors in oil, electricity, cement, aluminium, chemical, paper, and other industrial sectors; as well as leading firms in the data verification and certification, financial services, legal, and consulting industries. IETA works closely with policy makers in all jurisdictions with an emissions trading system in place or in regions contemplating implementing carbon pricing policies. It is committed to comply with regional and national antitrust laws.

IETA firmly believes in full and fair competition. IETA's activities must not lead to a restriction of competition between members, nor should meetings of members that IETA organises or supports be used by members to discuss or coordinate future market behaviour resulting in a restriction of competition.

These Guidelines are addressed to all persons involved in the activities of IETA. These guidelines seek to provide an outline of the practices that should be observed for participation in meetings organised for IETA members. These guidelines do not serve as an exhaustive guide to every aspect of competition law. Thus, if questions arise concerning IETA or any of its activities, members should seek advice from their own legal advisor, and notify the IETA Secretariat.

1. MEMBERSHIP

IETA shall ensure that any membership criteria are objective and are not applied in a discriminatory manner.

2. AVOID INFORMAL GATHERINGS

Most problems (or allegations of wrongdoing) are most likely to occur in the context of informal or "side meetings" outside IETA-organised meetings and activities. These should be avoided.

3. MEETING AGENDAS

An agenda should be prepared in advance and must only cover legitimate discussion topics (see below).

- The agenda should not include open-ended items, such as "Miscellaneous" or "AOB."
- The draft agenda must be approved at the beginning of each meeting, and any agreed amendments to the draft meeting agenda noted. Participants should follow the agenda during the meeting.

4. MEETING MINUTES

Minutes shall be taken of all meetings and distributed to all participants. All meeting attendees must be listed.

5. AVOID INAPPROPRIATE TOPICS

During IETA meetings, participants must be sensitive to how their remarks may be interpreted. They should avoid discussions which might be misconstrued as price fixing, customer or market allocation, attempts to limit production/output or boycott suppliers and/or customers. This is particularly relevant, should meeting participants be from the same industry or trade sector.

6. INFORMATION THAT MUST NOT BE EXCHANGED OR DISCUSSED

Exchange of certain types of commercial information may allow competitors to reach a common understanding on the terms of coordination of their competitive behaviour, even without any explicit agreement on coordination.

For this reason, during discussions that take place in IETA meetings where competitors are present, participants **MUST NOT** include any information that could be regarded as competitively sensitive market data, without first seeking advice from their own legal advisor, and notifying the IETA Secretariat.

Other than publicly available information, competitively sensitive information includes:

- Prices, pricing methods or policies, price changes, discounts, rebates, surcharges, dealer commissions or any other price related terms on which products/services are supplied, e.g. credit terms or terms of guarantees;
- Profit margins or individual significant company costs, including production, distribution or raw material costs;
- Details of individual companies' markets, territories, customers or suppliers;
- Individual companies' sales volumes, production capacities or utilisation, stock levels, etc.; or
- Individual companies' marketing strategies, future investment plans, changes in levels of production etc.

Even a single exchange of sensitive information between competitors at a single meeting can be enough to constitute collusive behaviour. E.g. ECJ Case C-8/08 *T-Mobile Netherlands 2009*.

7. INFORMATION THAT MAY BE EXCHANGED OR DISCUSSED

It is permissible to exchange non-sensitive information e.g. gathering and circulating data on health and safety, codes of conduct, technical standards or lobbying initiatives.

8. INAPPROPRIATE BEHAVIOUR

If inappropriate subjects are discussed at any meeting the Chairperson, IETA Secretariat official(s) and/or participants must object. The inappropriate conversation must be discontinued or those involved invited to leave. Legal advice must be sought if the conversation is to continue and in any event following the meeting. Such an action is to be recorded in the minutes of the meeting. If the conversation continues,

the Chairperson must suspend the meeting. Participants can have their objections and/or departure recorded in the minutes. The incident must be reported to the participant's own legal advisor.

IETA Secretariat, 3 March 2015

