Competition Law Policy

This Competition Law policy explains the standards and behaviour required of our employees and business partners to comply with the expectations of Huws Gray and competition law.

1. Introduction

Effective competition is a fundamental condition of a well-functioning market. Competition law seeks to ensure that markets generally operate as a level playing field for all participants and that companies conduct their business in a manner which does not restrict either their or other companies' independence. Competition law compliance ensures that, both as a company and as individuals, we comply with the various legal rules at a national and international level which are designed to ensure that competition is not restricted.

If you have any queries, or are uncertain which competition laws may apply to specific activities where you do business, you should contact **the General Counsel and Company Secretary**.

This Policy sets out:

- Why competition law compliance is important.
- A summary of the main competition rules applicable to Huws Gray Group.
- Practical guidance (do's and don'ts) on dealing with competition law risk.

The Board of Huws Gray is committed to complying with competition laws, and all employees should be aware that any infringements of the procedures or guidelines in this policy will be viewed very seriously.

Breaching competition rules is a disciplinary offence, which may lead to disciplinary action, up to and including dismissal.

2. Why is this important?

Compliance with competition rules is an important issue for Huws Gray Group and for you personally. Failure to comply with competition rules can have an extremely high personal and financial cost.

Breach of competition rules can have the following consequences for you:

- Entering into cartel arrangements is a **criminal offence**, which may result in a prison sentence of up to 5 years in the UK or 10 years in Ireland. Similar penalties exist in most jurisdictions across the EU.
- Potential **disqualification as a director** for up to 15 years.

Breaches of competition rules can also have the following consequences for the company:

- Fines of up to 10% of group worldwide turnover. In our case, this includes the entire Huws Gray Group and could mean a fine of up to c£150 million.
- Third parties who suffer loss as a result of anti-competitive behaviour may sue Huws Gray for damages.
- The agreement that infringes competition laws may be wholly or partially invalid, which means that the company cannot enforce it.
- Investigations and findings of infringement can create adverse press comment and reputational harm.
- Orders to cease or modify the infringing agreement or practice can be imposed.
- Investigations and possible legal proceedings resulting from infringements can take years to resolve, leading to high costs and taking up management time that should be devoted to running the business.
- Huws Gray could be prohibited from tendering for future business opportunities (both in the public and private sector)

3. Summary of the main rules

The main competition law rules are set out below and practical guidance on applying them is set out in the next section.

Competition law prohibits certain types of activities when (i) dealing with competitors, (ii) dealing with other parties and (iii) a company is in a "dominant position" in the market.

3.1 *Dealing with competitors*

Competition law prohibits any agreement or practice between two or more businesses that has the object or effect of restricting, preventing or distorting competition. The restriction of competition can be actual or potential.

Agreements can be either written or oral and can be informal arrangements such as a 'gentleman's agreement'. Therefore, a social meeting at which two competitors informally 'agree' to share customer information and not to undercut each other's prices will be caught by the prohibition. Unwritten understandings, tacit acceptance of collusive activities or acting on information received, would also breach these prohibitions.

3.1.1 *Cartels*

It is unlawful for two competing companies to agree to:

- fix prices;
- share markets;
- limit production or supply; or,
- fix or attempt to fix or influence in any respect the outcome of customer tenders (for example by agreeing what prices or terms to submit, agreeing to a compensation payment, agreeing not to tender, or to tender at a particular price (sometimes known as "cover bidding/pricing")).

Cartels are typically the most serious types of anti-competitive activity and can attract criminal penalties for individuals involved.

3.1.2 *Information exchange*

Exchanging strategic information with competitors is likely to be treated as **equivalent to price fixing**. Individuals must avoid sharing or discussing competitively sensitive information (e.g. pricing, including discounts and rebates, terms of business, costs, individual supplier relationships) with anyone outside of Huws Gray. This is particularly relevant to discussions held at forums such as trade associations and industry groups.

3.2 *Dealing with other parties*

Dealing with parties at different levels in the supply chain (for example, distributors or resellers) can also give rise to anti-competitive agreements.

Most distribution agreements are unlikely to restrict competition but examples of anti-competitive agreements between parties at different levels of the supply chain include **agreeing minimum resale prices with a supplier or distributor** (a supplier could, however, legally impose a *maximum* resale price, or suggest a RRP which does not have to be adhered to).

Further competition assessment is likely to be required for distribution agreements containing restrictions such as exclusivity, non-compete obligations or territorial restrictions.

3.3 *Abuse of a dominant position*

It is illegal for companies with strong market power (referred to as a "dominant position") to exploit their position, for example, by imposing excessively high or predatorily low prices, or discriminating between customers without justification. A long-term supply arrangement where the customer is "tied-in" for too long may also be considered an abuse.

Generally, a company will be in a dominant position if it can take business decisions without regard to its competitors. Assessing whether a company is in a dominant position depends on a variety of factors of which market share is only one. However, as a general guide:

- there is a *presumption* of dominance where a company has more than **50% market share**; and
- a *significant risk* that companies with a **market share of 40% or more** would be regarded as dominant.

The definition of the relevant market can vary and will be both product and geographically based.

4. Practical guidance - Do's and Don’ts

Whilst not exhaustive, the following guidelines may help you to identify risk areas and assist in deciding whether to proceed with, desist or consult over certain activities:

Do...

- Make commercial decisions unilaterally and independently from those of your competitors.
- Know in advance the legitimate reason for a conversation with a competitor, and do not stray from it.
- Keep records of what you discuss with competitors.
- Stop any conversation if you think it is straying into problematic areas.
- Leave a trade association meeting (or similar) if a conversation strays into problematic areas and asking for it to stop has not stopped the discussion. Ensure your departure is recorded in the minutes.
- Obtain an agenda in advance of any trade association meeting.
- Clearly identify the source of any market intelligence you obtain.
- Refer any restrictive items in any potential agreements to the legal team.

DON'T...

- Contact a competitor to ask whether, if you were to raise your prices, they would do the same.
- Discuss with a competitor the prices of key raw materials that you both purchase.
- Discuss at any meeting at which competitors are present, product prices, terms of sale, product or marketing plans, or business relations with suppliers or customers.
- Exchange individualised, private, current/recent information on sales, prices, discounts, terms of business, etc directly with a competitor.
- Discuss a supply arrangement with a competitor in order to get an understanding for selling prices in the market.
- Agree with a competitor the exact introduction time of a new product which you are both developing independently.
- Divide up different projects between you and a competitor, for example, by agreeing to bid for different contracts.
- Have discussions or make plans with a competitor to keep a new arrival out of the market.
- Warn a competitor or a new market entrant to "stay off your patch".
- Discuss with a competitor possible investment that you or the competitor are considering making in a particular country or area.
- Agree with competitors to boycott particular customers or suppliers.
- Make an agreement or act with a competitor in such a way as to allocate sales, territory, customers or products between you and the competitor.
- Agree resale prices with a supplier or distributor.
- If we have a **dominant market position**, don't:
    - Make sales below average variable cost to drive competitors out of the market.
    - Offer an extra discount to customers who agree to buy exclusively from you.
    - Refuse without any objective justification to deal with an existing customer.
    - Inform a customer that you will only supply product A (in which you are dominant) if he also purchases product B from you.

Seek advice before...

- Entering into exclusive distribution agreements or purchasing agreements.
- Entering into technology licensing agreements.
- Suggesting that you and a competitor increase leverage with a supplier of non-key items by purchasing jointly.
- Making an announcement of price changes in advance of the effective date (especially if you might retract it if other companies do not follow suit).
- Joining a trade association.
- Discussing the possibility of carrying out joint R&D with a competitor.
- Discussing a joint venture proposal

5. Other practical guidance

5.1 *Document retention and destruction*

You must not destroy documents or records (which would otherwise be retained under the applicable document retention and destruction policy) because you think they contain damaging information in relation to competition activities.

If you are notified that the company is under investigation by the competition authorities, you must contact the General Counsel and Company Secretary before continuing with the destruction of any documentation – even routine or scheduled destruction – which you believe may be related to the investigation.

5.2 *Language and documentation*

In all cases, please be careful about the language you use and how you document your discussions around competitive activity. **Remember that e-mail, social media interaction, voicemail, memos, handwritten notes, WhatsApp and text messages can be used as evidence as much as formal documentation** and run the real and significant risk of casual expressions being misinterpreted as anti-competitive. All such communication could be made public one day; please think how it would be perceived if this were the case.

Avoid the following:

- Making unfounded or speculative expressions about market share, whether yours or your competitors.
- Giving the impression of differential special treatment to certain customers or suppliers.

- Making incriminating statements such *as "please destroy/delete after reading"*.
- Making unnecessarily aggressive statements about competitive actions such as *"destroying / eliminating/ dominating the competition"*.
- Making statements that suggest pricing policy is anything but fair, transparent and independent.
- Making statements which presume to anticipate a competitor's likely response to our business strategy.
- Demonstrating business intelligence about competitor performance which could not have been ascertained wholly from publicly available information without giving a legitimate source.
- Making statements which suggest that an activity might be illegal; *"I'm not sure I should be telling you this but..."*.

5.3 Telephone enquiries

If you receive an enquiry from an inspector, government official or external party regarding a competition matter, pass the call on to the General Counsel and Company Secretary. If they are not immediately available, record the details of the caller and call and pass these onto your line manager immediately, who will handle the enquiry with advice from the General Counsel and Company Secretary as required.

5.4 Visits / Dawn raids

The competition authorities have rights under certain circumstances to access company premises, sometimes even employee's homes, and obtain evidence. These visits are generally unannounced and may involve the seizure of documents and selective interviewing of staff. The following principles should be understood and adhered to:

- **Reception of visitors** – investigators should be treated politely and cordially, since any refusal to comply will create an unfavourable impression and may also lead to criminal sanction. Do not formally accept notification of the inquiry, instead direct the investigators to a waiting room and appoint an individual to stay with them until the appointed company manager arrives. **Contact either the General Counsel and Company Secretary or a member of the senior executive team who will arrange for an appropriate member of management to attend to the investigators**. Do not leave investigators in a room with access to company files (hard copy or electronic) or other company information.
- **Conduct of the investigation** – once the identity and mandate of the investigators has been verified, the investigation should be conducted in accordance with the points below:

- **Do** make and retain additional copies of all documents and electronic files requested and copied by the investigators.
- **Do** keep a detailed record of questions asked by and company responses given to the investigators.
- **Do not** supply any documents which are marked “Confidential and Legally Privileged”, or are considered likely to be privileged, to investigators without prior legal approval.
- **Do not** attempt to delete documents and records, whether electronic or hard copy, either in response to the visit or otherwise in contravention of standard company document retention policies.
- **Do not** attempt to warn or tip off anyone about the visit. All communications should be through the appointed company manager or legal advisers.
- **Do** verify that the requests made by the investigators are consistent with their mandate but do not unlawfully obstruct their enquiries.