

## UK Steel Compliance Guidelines for Meetings

UK Steel provides forums for our members to meet and to discuss common issues. Activities conducted within UK Steel meetings are, however, also subject to the competition rules and those taking part need to guard against the risk that such activities may breach competition law. Trade associations such as UK Steel are required to take an active role in making sure that they comply with competition rules.

UK Steel Committees must avoid any type of conduct that would have the purpose or the effect of restricting competition on the market. In particular, discussions within Committees must not amount to, nor lead to, coordination with regard to any of the following: prices; any component of price or other factors with price relevance; market share; production, output or delivery quotas; capacity utilisation; sharing of geographical markets, customers or customer groups; investments or closures; or production programs. Discussions related to these topics are not permitted, regardless of the underlying motive.

This document sets out the basic principles of the UK Competition Act, UK Steel's policy and seeks to give guidance on how to stay on the right side of competition law.

## The Law

In short, the UK Competition Act 1998 prohibits:

"Agreements between undertakings, decisions by associations of undertakings or concerted practices which may affect trade within the United Kingdom and have as their object or effect the prevention, restriction or distortion of competition within the United Kingdom."

Article 101 of the EU Treaty, which is in almost identical terms, prohibits such arrangements where they affect trade between EU member states.

The Act also prohibits some so-called "vertical" agreements, for example where a manufacturer seeks to set the resale price at which its dealer can sell (i.e. it prohibits resale price maintenance). The Act extends to exchange of confidential information between competitors as well as to agreements themselves, especially where the information exchanged relates to prices charged, particular customers to whom sales have been made and the terms of such sales. Exchange of information as to costs can also be caught. The Act also catches non-binding, "gentlemen's" agreements. The term "agreement" also includes a Trade Association's governing documents and extends to recommendations made by a Trade Association to its members.

Companies found to be in breach can be heavily fined. Under a separate law, "hardcore" cartels practices, such as price fixing or collusive tendering (bid rigging) also expose individual directors and senior executives of companies involved to the risk of serious criminal sanctions which will not be limited to fines (Enterprise Act 2002).

## UK Steel Policy

UK Steel is not responsible for the competition law infringements of its members. UK Steel will not support, assist or get involved in any such conduct by its members. UK Steel strives to ensure that no meetings of members organised or supported by UK Steel are ever used to discuss or coordinate future market behaviour resulting in a restriction of competition. More generally, the platform offered by UK Steel to its members should not be misused for activities prohibited by competition law.

The presence of a UK Steel representative is therefore essential during UK Steel meetings. No UK Steel committee meetings are permitted without the presence of a UK Steel member of staff.

A written invitation must be sent together with a detailed agenda to participants at each UK Steel meeting. Discussions during meetings should reflect the agenda. Minutes of each meeting should be drafted accurately and comprehensively to reflect the discussions that took place at the meeting.

UK Steel staff as well as chairpersons and anyone attending UK Steel meetings are under a duty to ensure strict adherence to the competition rules. At all meetings, the UK Steel representative and the chairperson must recognise situations where competition issues may arise. They must immediately react to potentially inappropriate discussions by intervening with suitable guidance (i.e. indicating that such discussion is not appropriate in UK Steel meetings) and by bringing the potentially illegal conduct immediately to an end. Where this cannot be achieved, the UK Steel representative should leave and the chairperson must end the meeting. This must be recorded in the minutes of the meeting concerned.

UK Steel seeks to avoid, and urges its members to avoid any language that could be misinterpreted. Past cases show that ill-advised statements or unclear notes or documents can be misconstrued by competition enforcement agencies as effecting collusion. Such statements can put Trade Associations at risk of being prosecuted no matter what the underlying reality is. This could apply to UK Steel despite its strong commitment to competition law compliance. Any comment, note, email or other type of correspondence should be carefully reviewed from this perspective before being made by any member.

Nothing in these Guidelines are intended to discourage membership of or participation at UK Steel activities. The opposite is true. UK Steel has adopted these Guidelines in order that its members can feel comfortable lawfully attending meetings and sharing legitimate concerns and information in a carefully regulated environment.

Please do feel free to ask questions about the scope and application of these Guidelines. Your support helps us ensure that UK Steel's activities are conducted in compliance with the law.

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## Guidelines in Brief

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### Competition law compliance statement

Members are reminded that it is an offence under UK and EU competition law to use this meeting to collude in anti-competitive behaviour or to share or announce information that could influence the market behaviour of competitors. Amongst other things, members are required not to announce or signal price intentions or to attempt to influence the commercial policy of other members.

#### Dos

- Follow the meeting agenda and limit discussions to the topics on the agenda
- Avoid any language that could be misinterpreted as collusion
- Comply with the UK Steel competition compliance rules and the UK Steel competition compliance model when exchanging or discussing statistical data
- The exchange or discussion of highly aggregated information is permitted within the limits of the Don'ts below as long as supervised by external counsel
- Be conservative when qualifying information as being highly aggregated and maintain the level of aggregation throughout discussions
- Individual company data can only be exchanged if sufficiently historic (at least 12 months old)
- Obey these rules; if in doubt discuss the issue first with the UK Steel representative at the meeting

#### Don'ts

- No discussions on past, current or future prices or pricing terms such as rebates and discounts
- No discussions on how to react to changes in pricing from suppliers or how to pass on any costs to customers
- No discussions on individual output levels, production capacity or capacity utilisation
- No discussions on current or future aggregated output levels, production capacity or capacity utilisation
- No discussion of UK Steel statistics unless supervised by external counsel
- No discussions on investment
- No discussions on inappropriate concerted actions
- No discussion on sensitive information concerning customers or suppliers
- No discussion on forward views on demand for specific products which would allow for drawing conclusions in respect of the competitive situation and actions of individual competitors
- No discussion on individual forward looking operational or commercial strategies
- No exchange of other sensitive business data relating to the current or future market position of individual companies such as shutdowns, costs, bids, sales, orders, inventories, market shares or exports