DRÄXLMAIER

DRÄXLMAIER Group
Policy on Fairness in Competition

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Policy on Fairness in Competition

Introduction

This policy on fairness in competition adds further detail to the DRÄXLMAIER Code of Conduct, which is referenced in this policy. The purpose of the document is for the DRÄXLMAIER Group to issue a clear and unambiguous statement in favor of free and fair competition and to state its opposition to any distortion of competition contrary to cartel law.

Contents

Listed below are the main antitrust principles that are applicable throughout the world. By its very nature, it is not possible for this policy to cover all circumstances and facts that may arise in daily business.

Horizontal agreements

Price fixing

Agreements made between competitors that relate to prices, price components, price discounts, price increases, price calculations, pricing strategies, discounts, margins or other terms and conditions (such as delivery and payment terms) are prohibited.

Concerted action or trading agreements pertaining to markets or production volumes

It is prohibited to share markets on a territory or customer basis. It is also prohibited to conclude agreements or share information about production quantities or capacity.

Concerted action or agreements over tenders

Agreements between competitors within the scope of tenders are prohibited. This applies both to the content of the tender and to submitting the tender itself. It is therefore not permitted for competitors to coordinate with each other in respect of tender prices or any other terms and conditions, or even to unilaterally share details about their tender offer. It is also prohibited to come to an arrangement about submitting sham tender offers, as well as regarding which company shall participate or not participate and in which tender. There are exceptions to this if one company alone would not be able to execute the tender, e.g. because the contracting authority awards a proportion of the tender to competitors, or because certain competitors have been specified as subcontractors (e.g. with regard to off-the-shelf parts).

Customers/suppliers/competitors

Customers or suppliers of the DRÄXLMAIER Group that are also competitors of the DRÄXLMAIER Group are deemed to be competitors of the DRÄXLMAIER Group for the purposes of cartel law.

In these instances, all prohibitions and regulations of cartel law must be observed. In relationships involving the customer/supplier/competitor, it is only possible to exchange information that is totally necessary for the specific contractual relationship. Exchanging information that relates to the competitive relationship of both companies is not permitted. In relationships that involve customers/suppliers/competitors, care must be taken to ensure there a suitable confidentiality obligation is in place, as well as sufficient documentation in the form of minutes, notes or emails from which it can be clearly understood that the only information exchanged was what was completely necessary with regard to fulfilling a contractual obligation.

Concerted actions or agreements regarding personnel

Agreements over salaries, the head-hunting of employees, and agreements and/or information exchanges that take place between competitors or other companies – specifically information regarding salaries – are prohibited under antitrust law. This means, for example, that maximum amounts or ranges for entry-level salaries that are not bound by a collective agreement may not be agreed between competitors or other companies. Furthermore, it is also prohibited to conclude agreements that forbid the head-hunting of employees or more generally, the hiring of employees from competitors or other companies.

Sharing of strategic information

Sharing, or the unilateral provision of “strategic information” between competitors is not permitted. Any information that enables competitors to coordinate their market behavior, which might end up restricting competition, is deemed strategic. Included under strategic information is, predominantly, information about prices (see “Price fixing” for more details), quantities, costs, demand, customers, turnover, sales figures, profits and profit margins, capacity, utilization, quality, marketing and strategic planning, risks, investments, technologies as well as R&D programs and their outcomes.

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Should third parties share strategic information about competitors, this can be critical under cartel law. Competitors make use in a systematic and ongoing manner of a third party (e.g. customers) and use them as a way of providing strategic information in order to increase their knowledge about the future market behavior of other competitors – which would not be permitted since they cannot communicate and share directly with each other – is also not permitted (hub-and-spoke). Within the scope of price negotiations with a customer, care should be taken to avoid even the appearance of information being exchanged that is prohibited under antitrust law. Under no circumstances should a customer be subjected to active questioning about strategic information about our competitors. If our customer shares pricing information with us about our competitors, we should reject this information and make reference to the fact we are prohibited from sharing strategic information via third parties. In addition, such price information cannot be passed on internally.

Observing the market behavior of a competitor, on the other hand, is allowed. The DRÄXLMAIER Group can consult legal or public sources to obtain information about its competitors and vice versa.

Information that we receive from clients is classified as non-public information. It is also permitted to obtain information by examining, dismantling or testing a competitor's product that is already freely available on the market (reverse engineering). A source is only deemed to be “legal”, however, if the information has been obtained while complying with all contractual and legal obligations. It is not permitted to obtain or receive information that is subject to confidentiality, obtained by means of committing a criminal offence, or taking part in a criminal offence. It is also prohibited to provide inducements to employees of other companies to persuade them to supply the DRÄXLMAIER Group with information that breaches confidentiality obligations or results in a criminal offence.

Vertical agreements

Agreements that exist between companies at different economic levels (non-competitors) regarding the purchase of goods or services may also result in restrictive effects on competition and therefore may be prohibited ("vertical agreements"). This mainly relates to agreements concluded between the DRÄXLMAIER Group and its suppliers or customers. That is the reason why the fixing or influencing of supplier prices vis-à-vis third parties is not permitted under any circumstances. Any indirect influence on the resale price, e.g. by threatening to stop deliveries, levy contractual penalties, sanctions or the granting of financial incentives, is also not permitted. Exclusivity agreements concluded between non-competitors, especially those agreed with customers, can be permitted in certain circumstances. Irrespective of the situation, the legal department must be contacted before any corresponding contractual “vertical” agreement is concluded.

Abuse of a market-dominating position

The presumption is made that a company holds a dominant position if its market share in the relevant product market is greater than 40 percent. Cartel law does not prohibit a company having a dominant position per se. However, a dominant company is not allowed to abuse its position in order to hinder competition. A company such as this is not allowed to behave in the market in such a way that it makes it impossible and/or significantly more difficult for other companies to be in competition with it. In the event that a market-dominating position is held,

- exclusivity agreements or loyalty discounts with business partners,
- so-called predatory pricing, i.e. prices below production cost,
- and refusals to supply are all problematic.

Investigative proceedings undertaken by the authorities

Searches carried out by the authorities overseeing mergers, monopolies and cartel issues can take place unannounced at any time and at any of the DRÄXLMAIER Group sites. The officers who are conducting the search have very extensive investigative powers; for example, they are authorized to enter all company premises and business premises and question employees. Furthermore, they can seize, check and assess all business documents and mobile devices (e.g. computers, mobile phones, USB sticks, etc.).

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The following basic rules must be followed in order to prevent damage being caused to you personally and the DRÄXLMAIER Group:

- Immediately inform the legal department, company security or the compliance department.
- Behave in a cooperative manner.
- Do not hand over any documents or make any statements to the officers without taking the advice of the legal department or a lawyer.
- Do not allow the officers to move around the premises unaccompanied during the search.
- Do not destroy or conceal any documents or mobile devices.
- Do not break into any rooms that have been sealed by officers.
- Ensure that you keep a written record of all events and actions that happen during the course of the search, including copies and a list of all documents that have been copied or seized, in addition to a record of all statements that are made to officers.

Reporting channels when dealing with suspected cases

Employees that become aware or have evidence of an antitrust violation can report it immediately to their supervisor, the legal department or the compliance office.

The compliance office can be contacted by email or phone:

Email: compliance-office@draexlmaier.com

Phone: +49 1737547563

In addition, the DRÄXLMAIER Integrity Line (http://draexlmaier.integrityline.com) online reporting system is available 24/7 worldwide for DRÄXLMAIER Group employees and third parties to anonymously submit a report in several languages.

The legal department and the group compliance office are available to answer any questions you might have in relation to this policy or any specific issues.

Scope of application

This policy is applicable to all managerial staff and employees of the DRÄXLMAIER Group worldwide. The DRÄXLMAIER Group also requires its business partners to adhere to the above principles and to ensure they are taken into account in their respective corporate policies.

Epilogue

Fairness in competition forms one of the core competencies of the compliance office at the DRÄXLMAIER Group. The compliance officer reports directly to the CEO, and is independent of operational departments. The compliance management system of the DRÄXLMAIER Group has been designed to avoid antitrust and cartel conflicts; cases pertaining to antitrust issues are handled within a framework of clear processes, and sanctions and improvements to the process are carried out.

Additional information

For more information, contact policy-info@draexlmaier.com

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