

# ANTITRUST POLICY

## ***Introduction***

It is the policy of the ECGA and its members to comply strictly with all laws applicable to the Association activities as well as their respective business activities. It is important to emphasise the on-going commitment of the ECGA and its members to full compliance with national, European and international antitrust laws.

This policy statement is distributed at the ECGA meetings as a reminder of that commitment and as a general guidance for our activities and meetings.

## ***Responsibility for Antitrust Compliance***

The ECGA structure has been laid out and its program is carried out in conformance with antitrust laws. An equal responsibility for antitrust compliance – which includes avoidance of even an appearance of improper activity – is the responsibility of EACH AND EVERY MEMBER. Your corporate employer and the Association depend on your good judgement to avoid all discussions and activities, which may involve an improper subject matter or improper procedures. Association staff members work conscientiously to avoid any subject matter or discussion which may have unintended implications, and the Association Legal Counsel will provide guidance with regard to these matters. It is important for you to realise, however, that the anti-competitive aspect of a particular conduct or communication will in most cases be most evident to you, because of your direct involvement in the industry.

## ***Antitrust guidelines***

In general, the antitrust laws seek to preserve a free competitive economy and trade in Europe and with foreign countries. Competitors may not restrain competition among themselves

**with reference to the price, the quality or the distribution of their products, and they may not act in concert to restrict the competitive capabilities or opportunities of their competitors, their suppliers or their customers. In summary: price fixing and market sharing are the two cardinal sins.**

Under EU an/or national laws, penalties for violating the antitrust laws are severe: corporations are subject to heavy fines and injunctive decrees, and may have to pay substantial damages to competitors, suppliers, or customers. Individuals are subject to criminal prosecution in several countries and may be punished by fines and imprisonment. Since EACH OF YOU have an important responsibility in ensuring antitrust compliance within the frame of the Association activities, you should read and pay careful attention to the following guidelines:

The establishment of committees within the Association dealing with economic and market issues of a specific product is allowed. The EU competition authorities consider the work of such product committees as part of the normal and legitimate activity of professional and trade associations.

However, the following rules have to be respected:

1. Discussion and exchange of views on the present market situation of a product and estimation of future market developments based on objective criteria ONLY based on public data or aggregated data provided by the Secretariat such as demand of customers, stock situation, third country imports ... are allowed.
2. Trade associations are allowed to collect any kind of data which their members are ready to provide. This means that data collected by trade associations can be more exhaustive than public statistics. This applies to product definition as well as

periodicity. While there are no restrictions for data collection, disclosure, however, is submitted to the following rules:

- *Disclosure can only be made in aggregated form*
- *With regard to deliveries, aggregation applies to market of destination (national markets).*
- *Exchange of aggregated data is not allowed when the sum of aggregated data is built up by figures for less than three companies.*

### **3. DOs & DON'Ts:**

- (a) *Don't discuss with other members your own or competitors' prices, or anything that might affect prices such as costs, discounts, terms or sale, or profit margins.*
- (b) *Don't stay at a meeting where any such price talks occur.*
- (c) *Don't make public announcements or statements about your own prices or those of competitors in any meeting of the Association.*
- (d) *Don't talk about what individual competing companies plan to do in particular geographic or product markets or with particular customers.*
- (e) *Don't disclose any competitively sensitive information at meetings or otherwise.*
- (f) *Do conduct all ECGA business meetings in accordance with Association rules. These rules require that an Association staff member is present, the agenda is followed and that minutes are properly recorded.*
- (g) *Do confer with the Association Legal Counsel before bringing up any topic or making any statement with anti-competitive ramifications.*
- (h) *Do send all Association-related correspondence to the ECGA Secretariat.*

- (i) Do inform the Association staff of any inaccuracies in proposed statements to be made by the Association on behalf of the carbon and graphite industry, particularly statements to government officials.
- (j) Do remember that meetings with government officials may not provide a shield against antitrust liability.

## **Conclusion**

Compliance with the guidelines contained in this Antitrust Policy involves not only avoidance of antitrust violations, but avoidance of any behaviour that might lead to it. Bear in mind, however, that the anti-trust laws are stated in general terms, and that this policy statement is not a summary of applicable laws. It is intended only to highlight and emphasise the principal antitrust rules, which are relevant to ECGA programs. You must, therefore, seek the advice of either the Association Legal Counsel or your own corporate legal counsel if and when antitrust questions arise.

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