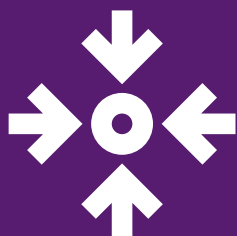


DI Guidelines for Compliance with Competition Law

English version



Compliance Program

April 2024

DI's Policy on Competition Rules

DI supports open and effective competition. DI's goal and basic position is full compliance with the Danish and EU's competition rules.

DI is committed to create an environment in which members can meet to exchange knowledge and information to the benefit of the development of both the companies and their employees.

Obviously, it is crucial that the exchange of information that takes place within the framework of DI complies with competition law.

On this background, DI has laid down these guidelines (Compliance Programme) to support DI employees and members in their awareness of potential risks of breach of competition law.

DI's Compliance Programme is available in Danish and in English, both of which are publicly available on DI's website.

If there are questions in relation to the understanding of the competition rules or the Compliance Programme please contact DI's Compliance Officer.

Lars Sandahl Sørensen
CEO
Danish Industry



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Competition Law

The Danish Competition Act outlines the framework of companies' options to compete and cooperate. The Competition Act also limits the extent to which organisations and trade associations can exchange information with their members.

The Danish Competition Act includes two key bans (in parallel with EU's competition regulations):

1. A ban against agreements which restrict competition
2. A ban against abuse of dominant position.

Particularly the ban against anti-competitive agreements is of relevance for the relation between DI and its members, and between the members. Therefore, the guidelines will focus on this ban.

It is, however, important to note also that e.g. a trade association or another member association in DI could be regarded as dominant within its field, and would therefore be affected by the ban against abuse of dominant position. In such event, the trade association cannot abuse its dominance to exercise a market conduct that is only possible due to the association's independence of competitors, customers etc. Thus, it can be problematic in terms of the competition rules, if e.g. a trade association or member association excludes an undertaking without the existence of objective and general reasons for exclusion.

Prohibition of Agreements which restrict competition

The Danish Competition Act lays down a prohibition against agreements which restrict competition, according to which companies and organisations etc. are prohibited from entering into agreements that directly or indirectly intend to restrict or do in effect restrict competition.

Accordingly, any agreements that fix purchasing and sales prices or other business conditions will be in breach of the Competition Act.

Also, it is prohibited to enter into agreements that will limit or control production, sale, technical development or investments, or to divide up markets or supply sources.

Finally, it is prohibited to enter into agreements to boycott suppliers or customers. Consequently, it is also prohibited to agree with competitors not to bid on an assignment or not to take part in a bid, notwithstanding the cause.

Exchange of Information in DI

As exchange of information and statements may result in unification of members' behavior, with an effect similar to that of a concrete agreement, exchange of information and statements from DI to members or between members may also be regarded as an "agreement" or a concerted practice as defined in the Danish Competition Act.

Often, such exchange of information will not constitute a problem with regards to the Competition Act, but will be a natural and valuable part of the DI membership. Information and discussion about general trade conditions and new legislation will accordingly be permitted, as may the draft of new standard agreements etc.

It is decisive that the purpose or result of an exchange of information was not to restrict competition.

The exchange of information on central competitive parameters should thus be avoided, as it will normally be in breach of the Competition Act. Information that may serve as a recommendation of a specific behavior in the market should likewise be avoided.

Non-permitted exchange of information could be any kind of direct and indirect recommendations regarding prices, supplements, discounts etc., for instance a recommendation that all members should charge a specific fee or apply specific guarantee conditions in their contracts.

In addition, calculation tools that include specific numbers or values concerning costs, profits etc. would be a violation of the Competition Act. Reversely, it is permitted to work out e.g. models that will help members calculate price offers etc., provided they are not filled out in advance on vital competitive fields with realistic and useful numbers.

Exchange of information on individual and/or updated statistics on prices, sale etc. may also constitute a competitive problem. Essential in this respect is whether such information may serve to remove uncertainty about competitors' behavior.

Finally, when developing product standards, certification, or voluntary trade agreements, specific consideration should be given as to whether such agreements may be in breach of the Danish Competition Act in that their intention or consequence is a limitation of competition.

Please note that requests or invitations from authorities on industry to selfregulation can be problematic if the content collides with the competition rules. Furthermore, DI or members will not be exempt from the prohibition if an unlawful agreement or behavior is based on a request or invitation from a public authority, which is not legally binding.

Handling of competition sensitive information

If employees in DI collect and handle competition sensitive member information, it is important that employees handle such information in a confidential way especially in relation to DI's members, including board of directors in member associations, trade associations etc. Hence, it may be advantageous to have adequate and verifiable procedures to ensure a confidential handling of such information.

Meetings in DI

To avoid any such violation, meetings within the framework of DI should as a rule be have an advance agenda, and minutes should be made to document the contents and course of the meetings.

DI's employees should always notify participants in meetings etc. of the limitations on exchange of information as laid down in these guidelines. Pay special attention if members, which are competitors, are attending the same meeting.

In case of doubt regarding the observation of the guidelines, or in other competition matters, DI's Compliance Officer must be contacted without delay. The meeting should only be resumed when it has been positively established that the matter does not violate the Competition rules.

A member may at any time require to have a specific statement included in the minutes, if, for instance the member wants to display a formal disagreement with an occurrence at the meeting.

Sanctions

Violations of the competition rules can have serious consequences for both DI, DI's employees and DI's members.

If the Competition Act is violated, DI or DI's members will be required by an enforcement notice to stop the violation.

In addition, DI as an organization and DI's management – and in specific cases, employees in non-executive positions – could face heavy fines, if the violation was intentional or resulted from gross negligence. Similar rules apply for both the member companies and its management.

Furthermore, imprisonment for cartel agreements was introduced in Denmark in 2013. It is not only the management who can face imprisonment, but in specific cases also employees in non-executive positions.

In addition, persons or companies who have suffered losses because of the infringement of the competition rules can claim compensation.

All findings of violation of the Competition Act, notwithstanding enforcement notice or fine, will be published on the web page of the Danish Competition and Consumer Authority.

Inspection by the Competition Authorities

If the competition authorities suspect illegal actions pursuant to the Competition Act, the authorities may make inspection visits (“dawn raids”).

Before a dawn raid is carried out, the competition authorities must obtain a court order that establishes the foundation of the inspection.

The inspectors are then authorized to examine any and all offices of DI (including external data processers), cabinets, drawers, computers, and means of transportation, as well as employees’ bags, pockets etc. Dawn raids may also include employees’ private homes.

In addition, the inspectors may copy any kind of material, with the exception of notes etc. from external lawyers, and may record oral explanations from employees.

In addition to these guidelines, a more detailed instruction has been prepared for dawn raids.

DI’s policy principles in Competition Law

Based on the above, DI has set up the following principles within the field of competition:

- DI supports active and real competition as part of DI’s ethics.
- DI’s goal and basic position is full compliance with the Danish and EU’s competition rules.
- DI consequently urges employees and members to fully comply with competition law in all DI activities, including members’ meetings.
- Pursuant to the competition legislation, participation in activities that are intended to or will lead to restriction of competition is not permitted.
- DI therefore does not permit exchange of information on individual prices, margins, discounts, credit conditions, or other substantial business conditions related to members’ products or services.
- DI also does not permit exchange of information on biddings or contractual conditions that may indicate anti-competitive behavior, or exchange of information on quotas, or division of markets.
- Members’ meetings within the framework of DI should have an advance agenda, and minutes should be made to document the contents and course of the meetings.
- DI employees should intervene if subjects are discussed that may not comply with competition law.
- In case of doubt with regards to the Competition Act or the present Compliance Programme, DI’s employees must without delay contact DI’s Compliance Officer.

The Role of the Compliance Officer

In connection with the preparation of the present guidelines, DI has appointed a Compliance Officer, who will offer cross-organizational support to DI employees and members on the compliance with current competition legislation at meetings etc. in DI.

Both DI employees and members participating in meetings in DI may contact the Compliance Officer to obtain a legal opinion on any competition matter that the person may find relevant regarding the compliance with competition law or the present guidelines.

At own discretion, the Compliance Officer is further authorised to take part in member meetings, and to initiate examinations of routines in DI in relation to the contact to and between DI members. The Compliance Officer will also launch a competition training programme for relevant DI employees.

The Compliance Officer will act as DI's contact to the competition authorities and other authorities concerning the handling of specific competition matters. Following this, immediate contact must be made to the Compliance Officer by any inspection visits in DI by competition authorities.

Finally, the Compliance Officer will monitor the practical compliance with these guidelines and will keep DI's management updated on specific matters and problems.

DI's Compliance Officer:

Senior VP Legal Kim Haggren

Phone +45 2124 4608

kih@di.dk

