

Group Competition Law Policy

As a multinational company operating and trading in all major countries in the world, Sappi is subject to the competition and antitrust legislation in many jurisdictions. Although country specific legislation is different in application, the underlying principles of anti-competitive behaviour are similar and the guidelines provided below highlight these behaviours.

The consequences to Sappi for not complying with antitrust laws are significant and non-compliance can result in serious financial fines, reputational harm, private damage claims and potentially criminal penalties being imposed on both the company and its employees. Potential infringements of antitrust laws are the single most important legal risk that Sappi is subject to.

Antitrust laws apply not only to specific departments of an organisation (as might be commonly believed) and are also not only applicable to the major business products or areas but apply to all departments and any and all businesses within the group. It is therefore important that all business units and divisions be aware of what constitutes anti-competitive behaviour. The guideline below provides an introduction to what behaviours are considered anti-competitive and how employees should go about avoiding and reporting such behaviours should they be identified.

THE POLICY

The Sappi group holds a policy of strict compliance with all laws applicable to its operations worldwide and as such requires strict compliance with all antitrust legislation. Because circumstantial evidence is frequently the basis upon which antitrust liability is found, Sappi also must avoid even the appearance of anti-competitive conduct.

Each employee must understand and comply with antitrust laws as they may bear upon his or her activities and decisions. It is the responsibility of regional managers and supervisors to ensure such compliance. Any employee found to have participated knowingly or negligently in violating antitrust laws will be subject to disciplinary action, and sanctions might include dismissal.

Antitrust law compliance forms part of the Group Legal Compliance Program, and the Group Legal Department will report annually on its findings.

Regional legal departments conduct regular competition law training and/or publish competition law updates to employees. Appointed employees are compelled to attend and/or complete any training provided and failure to do so could result in disciplinary action.

Sappi might conduct internal *ad hoc* compliance investigations or enquiries with any employees should it consider it necessary.

Conclusion

It is in the interest of Sappi and its employees to comply with antitrust laws and employees are therefore obliged to fully understand them and/or consult with the respective legal departments to stay abreast of changes to the applicable rules to ensure full compliance.

COMPETITION LAW GUIDELINES

Purpose and use of guidelines

These guidelines provide a basic orientation regarding antitrust compliance risks. They are intended to help employees to recognise sensitive situations, problem areas and behaviour that are and might be considered anti-competitive.

The Black List - *Per se* prohibited behaviour

The following behaviour must at all times be avoided:

Horizontal agreements

Attempting or actually entering into an explicit or tacit understanding with actual and potential competitors to stifle competition by any of the following means:

- Fixing prices (this includes the actual price or any increases or any charges related to the product)
- Joint establishment of discounts/rebate policy
- Fixing other terms and conditions (ie delivery, payment terms etc)
- Division of territories (“we’ll stay out of your market if you stay out of ours”)
- Division of customers (“we take these customers, you take those customers”)
- Joint decisions on production output
- Collective boycotts (ie where competitors jointly boycott a supplier or customer)
- The exchange of sensitive business data on prices, costs, sales or production
- Collusive tendering (agreeing on terms of tenders), or
- Or any other behaviour that results in the outcomes listed above.

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Vertical agreements

Attempting or actually entering into an explicit or tacit understanding with suppliers and/or customers to stifle competition by any of the following means:

- Vertical price fixing that is, where the manufacturer compels its distributor to resell the product at a specified price (so called resale price maintenance or RPM), is prohibited in virtually all jurisdictions.

The Grey List – Potentially prohibited behaviour

Agreements with competitors

In certain circumstances, agreements with competitors may be considered permissible when their restrictions to competition are outweighed by efficiencies, eg improvements in technology or production. Examples of such arrangements include the following:

- Joint technical or quality control standards, or
- Joint research and development ventures.

When employees are proposing, or invited to participate in, any arrangement with competitors, they must inform and consult with their Legal Department immediately and before the event.

Role and risks of trade/industry associations and information exchange

It is acknowledged that trade associations have a beneficial purpose and role to play in business and industries. However, it is also true that trade associations in various industries have been misused to facilitate anti-competitive behaviour. Therefore, specific caution must be taken in representing Sappi at such associations. Tolerating, as well as actively participating in illicit behaviour, is general enough to expose Sappi and its representative to the applicable sanctions. Trade associations or similar formal or informal gatherings of competitors (ie conferences and trade events) should have and must follow a competition law policy. Suspect behaviour must immediately be reported to your Legal Department.

Information exchange in trade associations amongst competitors has become an area of antitrust law that attracts significant attention by enforcement agencies. Information exchanges in form of company data between competitors through trade associations have been misused in certain industries to facilitate or artificially manage market shares, market allocations or prices. As a rule of thumb, the more aggregated and the more historical the information is the less likely it is that such data can be allocated to a specific company which would otherwise raise antitrust concerns. Any request or exchange of information via trade associations must therefore be checked or verified with the legal department beforehand.

Abuse of dominance

Many jurisdictions have legislation prohibiting the abuse of a dominant position or monopolisation. The aim of these rules is to curb abusive business practices of dominant players in the relevant product and geographic markets and, as a consequence, heavy fines are not uncommon. Because Sappi has different market positions expressed in market share with respect to various locations and products, Sappi employees should exercise caution and seek advice from the Legal Department before engaging in any activities which might be considered an abuse if Sappi were deemed to have a dominant position in a particular market.

The types of conduct that may fall within the scope of this prohibition include the following:

- Predatory (including below cost) or excessive pricing
- Discrimination with regards to prices, discounts or rebates
- Loyalty (or 'fidelity') discounts and rebates (ie price reductions based on the purchase of requirements or a percentage of them)
- The tying of separate products and services (ie making the sale of one product or service conditional upon the purchase of other products or services)
- Refusal to provide access to an essential facility (such as an indispensable intellectual property right)
- Full-line forcing (ie forcing a customer to purchase a full line of products), and
- Refusal to supply.

Merger control

Many jurisdictions around the world possess some form of merger control legislation. These rules often require prior 'notification' of mergers, acquisitions and some types of joint ventures to the antitrust enforcement authorities concerned. The powers of these enforcement authorities may include mandatory suspension of the transaction until clearance is obtained, as well as the power to prohibit such deals or to approve them subject to conditions. The failure to notify and suspend the deal may also entail the imposition of heavy fines and divestiture.

For these reasons, all mergers, acquisitions, joint ventures and similar transactions must be discussed with and cleared by the Legal Department in advance.

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POLICY

Guidelines on documents and electronic records

The treatment of documents and electronic communication is important because most legal systems do not consider business-related communications (eg 'personal' files, email, texts, social media communications, hand-written notes, diaries, appointment books, or voicemail messages) as privileged, with the result that these documents are subject to inspection and copying by governmental and private litigants. A Sappi company can only claim legal privilege for certain types of documents in which business people are receiving legal advice and attorneys are providing legal advice. This type of written communication often has the heading "SUBJECT TO ATTORNEY AND CLIENT PRIVILEGE" or similar words; however, it is important to note that the use of those words along does not create a privileged communication. It is also important to note that in some jurisdictions such as the European Union where Sappi operates the privilege only applies to communications with external attorneys, not in-house attorneys.

Internal notes, email etc are often written about competitive matters, which may, due to ambiguity or exaggeration, convey the erroneous impression that there has been illicit antitrust behaviour eg with respect to prices or any other anti-competitive conduct. These notes should thus be written clearly and carefully to avoid misinterpretation. Documents which contain careless and inappropriate language may look suspicious or collusive.

The following guidelines should be kept in mind when writing or reading correspondence and memoranda including postings on social media sites:

- Do not use words suggestive of guilty or surreptitious behaviour, eg "please destroy after reading"
- Do not overstate the significance of Sappi's competitive position or a production or marketing strategy, eg "dominant position", or "market leader"
- Do not speculate on the legality of business conduct
- Do not describe as undesirable or objectionable the competitive activities of competitors or customers, eg customers are lost, not "stolen"; price cutting is not "unethical"; and persons who charge higher or lower prices than Sappi are not "mavericks"

- Do not suggest that a customer or a class of customers is getting special treatment, eg "for you alone"
- Do not use language which falsely suggests collusive conduct eg "industry agreement" or "industry policy"
- Do not use language that could be interpreted to suggest anti-competitive or predatory intent, eg "this program will cripple our competitors"
- Do not use language that could be interpreted to indicate economic power or the ability to price products independent of competition, eg "we will be able to raise prices without fear of competitor reaction," and
- Do not use language which falsely suggests Sappi has an intention to influence competitor pricing, eg "the others will follow the lead," "support" or "match" the price increase of a competitor.

Any price increase announcement, press release regarding costs, current or future prices, production or marketing strategy, joint ventures, acquisitions, or divestitures, should be reviewed by the Legal Department prior to publication.

Appropriate action

The obligation is on each employee to bring to the attention of their Legal Department as soon as an employee suspects that a transaction or action may be viewed as anti-competitive promptly and before any action is taken on behalf of the company, circumstances which may have anti-competitive implications.

It is imperative that there be full disclosure of all the facts when advice is sought. Full information at the earliest stage will enable the Legal Department to recommend a course of action designed to avoid potential deviation or non-compliance.

In certain of the regions in which the group operates, it might be necessary for more specific policies and procedures to be put in place to comply with the competition rules in those jurisdictions. The Legal Department in each region is responsible for assessing if, and if so to what extent, this is necessary and advising their Chief Executive Officer of any such further specific requirements.

Steve Binnie
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Sappi Limited