

This document serves as a manual for meetings of bodies, committees, working groups e.a. within Agoria, to which competing companies participate. The purpose is to safeguard at all times free competition and to provide practical guidelines to this purpose, so that each participant to a meeting is aware of these guidelines and applies them in a transparent manner.

1. Agenda

Meetings of a body, committee or working group shall only take place after the members have been invited to the meeting in writing. The invitation shall preferably also include the agenda of the meeting.

2. Minutes

Minutes shall be taken of each meeting; these shall be sent to all members of the body, committee or working group concerned and shall be kept for a sufficient period of time in an organised manner.

3. Discussion of items on the agenda

Discussion of items on the agenda shall be limited to the official meeting, whose minutes will be taken and recorded. It is forbidden to decide to discuss certain topics during the meeting on the condition that these should not be recorded in the minutes. Should such a condition be suggested, the chairperson of the meeting must refuse to proceed to discuss the topic in question.

4. Forbidden topics

The main principle of competition law is that free competition may not be hindered. This means that companies may not directly or indirectly exchange information or make agreements with the purpose of or consequence to restrict competition. This does obviously not apply to information which is publicly available.

Practically, care should be taken to ensure that no individual commercially sensitive information proper to a company is being discussed nor exchanged in the presence of competing undertakings during meetings of bodies, committees or working groups. In case of doubt about the sensitivity of a topic from a competition law point of view, this topic cannot be discussed until advice of a competition law expert is obtained and that this advice allows to discuss the topic either without any reservations or within certain limits.

There is no limitative list of topics which are per se prohibited by law, but as soon as the information may give way to an alignment or collusion between the undertakings, it is to avoid. This generally concerns business information, both actual or future, of market players, which is commercially sensitive and therefore confidential.

Are in any event included:

- (future) purchase or sales prices, price components, recommended prices, price strategy and calculation, discounts and planned price changes;
- production figures, volumes, turnover, costs, sales, profits, planned investments or divestments, future market behaviour;
- mutual market allocation, for example by assigning a specific geographic region, specific customers or groups of customers to specific participants;
- limitation of production or sales;
- exclusivity for specific participants to represent manufacturers or importers;
- boycott of suppliers or customers;
- distortion of or influence on the participation to or the price setting in procurement procedures (e.g. all competing bidders agree to add an additional cost to their bid).

Other topics which may include commercially sensitive information should always be dealt with due caution, such as for example:

- terms and conditions of sales, purchase, delivery and payment (e.g. in case of compulsory use);
- information concerning contracts with third parties, including customers, distributors or suppliers of raw materials;
- restrictions on participation in trade fairs (e.g. if not objectively justified);
- limitative schemes for recognition (e.g. if not objectively justified).

5. If a forbidden topic is discussed

Any discussion that is or could be questionable or inappropriate from a competition law point of view shall be terminated at once. The participant explicitly objects and withdraws from such discussion and should request that his/her objection be recorded in the minutes of the meeting. If the discussion is not terminated, he/she must leave the meeting. The mere receipt of commercially sensitive business information of a competitor can constitute an infringement, even though the recipient did not align its behaviour or did not itself disclose any information. Passively tolerating or facilitating such information exchanges can be considered as a participation in the infringement.