

## CLEPA Competition & Antitrust Policy

### 1. CLEPA position

The CLEPA member companies' business is the development, production, and supply of automotive technologies, services, parts, and components to vehicle manufacturers and the aftermarket. As a European trade association, CLEPA's purpose is to promote the interests of its members and to facilitate their respective aims, objectives, and activities.

CLEPA is determined to carry out this role and its related activities diligently and with the utmost integrity, solely through legitimate means, and to maintain policies and procedures which will ensure against any violation of the applicable laws. CLEPA will ensure in particular that its activities do not violate the relevant antitrust laws.

This Competition and Antitrust Policy (the "**Policy**") encompasses the corresponding principles and procedures which shall govern CLEPA's role and all of its activities.

### 2. Reminder of relevant antitrust rules

The most relevant antitrust statute for the Association's activities is Article 101 of the Treaty on the Functioning of the European Union ("TFEU") which prohibits:

- agreements between undertakings
- decisions by associations of undertakings and
- concerted practices<sup>1</sup>,

which have as their object or effect the prevention, restriction, or distortion of competition.

This includes in particular agreements and concerted practices between competitors on prices, price elements or terms and conditions, on the allocation of customers or markets, on production quantities or capacities or on the use of certain technologies.

The exchange of commercially sensitive information between competitors typically constitutes a concerted practice within the meaning of Article 101 TFEU. Competitors thus must not disclose to each other information on their current or future market behaviour, including information on their prices or planned price increases, their contractual terms and conditions, their costs and margins, their production or sales of specific products, their capacity utilisation, their investment plans and their R&D projects. Also specific sustainability data (e.g. investments to make products more sustainable, sustainability performance data, data on compliance with sustainability requirements/benchmarks/targets are commercially sensitive.

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<sup>1</sup> This refers to anti-competitive conduct that is not based on an agreement but on communication between competitors which is aimed at influencing the participants' market behaviour (such as informing competitors about a planned price increase).

Certain agreements between suppliers and customers, such as agreements on resale prices, territorial limitations, customer restrictions and exclusive supply or purchase commitments, are also prohibited and/or allowed only under certain conditions.

The antitrust laws in most countries which may have jurisdiction over CLEPA and its members differ only in details from the EU competition rules.

CLEPA must therefore ensure compliance with competition law in particular in the following areas:



Conduct meetings



Informal contacts between members



Collection and sharing of confidential information of members



Decisions or recommendations of CLEPA



Handling of membership applications

### 3. Principles of compliance

#### 3.1. General rule

CLEPA has a zero tolerance approach toward and will not condone, support, or facilitate in any way activities that violate relevant antitrust laws.

In support of this Policy, the Legal Manager of CLEPA shall take appropriate measures to ensure that all programmes and activities of CLEPA do not generate any antitrust violations and that, where necessary, any such programmes or activities shall be referred to CLEPA's Legal Advisory Group (the "**LAG**") and/or CLEPA's external legal advisers for review. This approach shall also apply to the establishment, terms of reference and activities of CLEPA's Working Groups and Committees.

#### 3.2. Anti-competitive agreements

Agreements concerning the following issues constitute serious violations of competition law and expose the parties to the risk of very significant fines:

- Price fixing (including fixing of price components, etc.);
- Allocation of product markets and/or geographic markets;
- Allocation of customers;
- Bid rigging;
- Restriction of production, capacity or sales;
- Collective boycott.

Other types of arrangements with competitors can also competition law risk and require prior legal review by legal counsel: This includes, for instance,

- Agreements on the use (or the timing of the introduction) of certain technologies; and
- Joint selling agreements, joint purchasing agreements or joint research and development agreements.

### **3.3. Exchange of competitively sensitive information**

The programmes and activities of CLEPA may involve the collection and analysis of competitively sensitive information from its members. CLEPA will do so only where there are legitimate objective reasons for such data collection, for example, to analyse industry trends, to canvass opinions on pending legal or regulatory developments or to obtain data that support certain advocacy positions of CLEPA.

Any collection and dissemination of competitively sensitive information of members shall be undertaken in a manner that prevents the disclosure of such information to other members, which could give rise to an agreement or concerted practice between competitors which infringes antitrust laws. This applies in particular to information on:

- sales prices, rebates, pricing strategies and other market relevant sales conditions;
- purchases prices and other relevant purchasing conditions;
- costs and margins for specific products;
- sales and production of specific products;
- sales strategies and supplier selection;
- capacity, capacity utilisation, investments and confidential R&D projects.

CLEPA will ensure that:

- a. The collection and analysis of such information will be undertaken by CLEPA staff and not its members and only after consultation with CLEPA's legal advisors.
- b. CLEPA staff will ensure that all competitively sensitive information collected by them is protected against access by members or third parties through appropriate confidentiality arrangements and IT safeguards.
- c. Before its disclosure to other members, all competitively sensitive information is aggregated and anonymised in a manner that does not allow to identify or guess the data or position of individual members.
- d. Aggregated and anonymised competitively sensitive information is disclosed only if it is derived from data of at least five member companies.
- e. Aggregated and anonymized competitively sensitive information will not be discussed or commented among CLEPA members in a way that would disclose or allow to guess the data or position of individual members.

### **3.4. Permitted discussion topics**

Topics that can be discussed at meetings of CLEPA include:

- Lobbying
  - Planned legislation or decisions of governmental bodies and their implications for the membership as a whole – but *no* sharing of information on how *individual* members will be affected;
  - Whether and how CLEPA should seek to influence planned legislation / decisions of governmental bodies – even if the planned legislation/decisions or the changes advocated by CLEPA would ultimately limit competition;<sup>2</sup>
  - CLEPA's lobbying activities;
- General political, technical or market developments
  - the political environment;
  - general technical/scientific developments;
  - economic developments and general developments in the industry;
- Information that is in the public domain (information published on members' websites, statistics published by government agencies etc.).

### 3.5. Recommendations and Codes of Conduct

CLEPA shall not make any recommendations regarding *market-related* conduct of its members that can be an *element of competition*. In particular, CLEPA will not make recommendations on pricing or other commercial terms of agreements between members and their business partners. By contrast, CLEPA can recommend for instance that members advocate certain policy positions or support certain (compliant) industry initiatives.

Recommendations of CLEPA shall not be binding on individual members.

Codes of Conduct adopted or approved by CLEPA shall not include commitments regarding *market-related* conduct of its members that can be an *element of competition*.

All recommendations and codes of conduct to be adopted or approved by CLEPA shall be reviewed by CLEPA's external legal advisers.

## 4. Compliance procedures

### 4.1 Membership

Membership in CLEPA is based on objective, transparent and non-discriminatory criteria set out in the statutes of the Association.

A company can become a member only after it has committed in writing to comply with this Policy.

Members that commit a serious violation of competition law in connection with their activities in CLEPA and members that repeatedly violate this Policy (e.g., by not respecting certain procedures) can be excluded from the association.

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<sup>2</sup> This is because competition would not be restricted by the conduct of CLEPA's members but by the decision of the legislator/governmental body.

#### 4.2. Working Groups and Committees

The following procedures shall apply to the activities of CLEPA's Working Groups and Committees.

- CLEPA's Legal Manager shall ensure that all Working Groups or Committees that undertake any activity or programme on behalf of CLEPA (which may or may not include CLEPA member representatives) are **established** in accordance with this Policy and that their terms of reference comply with this Policy.
- Each CLEPA member will ensure that only employees who have received appropriate competition law training and are familiar with this Policy participate in the activities of Working Groups or Committees of CLEPA.
- All Working Groups or Committees of CLEPA shall have a duly appointed **Chair**, who is responsible for ensuring that the activities of the Working Group/Committee, including in particular the convening and conduct of any meetings, comply with this Policy. Where appropriate the Chair may be assisted by a CLEPA staff member appointed to oversee the activities of that Working Group or Committee.
- The Chair of any Working Group or Committee and the appointed CLEPA staff member shall be entitled to **stop** any activity including any meetings that are not fully compliant with this Policy and shall report immediately any suspected compliance issues to the CLEPA Legal Manager.
- If a member of a Working Group or Committee voices concerns that a discussion or activity of the Working Group/Committee may violate competition law, the Chair must stop the discussion or activity immediately and consult the Legal Manager, unless the concerns are clearly unfounded.
- All meetings or discussions or debates whether to be conducted in person or by telephone or video conference or other media ('meeting') shall have a detailed **written agenda**, which shall be approved in advance by the Chair of the meeting (and, if applicable, the appointed CLEPA staff member). The agenda shall set out in reasonable detail the purpose of the meeting and all matters to be discussed and shall be made available to all participants before the meeting;
- A **reminder of the CLEPA Competition and AntiTrust Compliance Policy** and the need for complete adherence to it by all participants shall be the first agenda item at every meeting and wherever practical a summary of key DOs and DON'Ts shall be available for reference at every meeting;
- All meetings shall be documented in writing accurately and completely and the **minutes** of the meetings shall require the approval of the Chair prior to their circulation to the members; The minutes of all meetings shall be provided to the relevant appointed CLEPA staff member or the CLEPA Legal Manager;
- It shall be a condition of acting as **Chair** of any CLEPA Working Group or Committee or of chairing a meeting of a Working Group of Committee that the chairperson has confirmed in writing that he/she (i) has received a copy of the Policy and will ensure the meetings of the Working Group of Committee are conducted in compliance with the Policy, and (ii) has received approved training in relation to the Policy or other appropriate competition law training.

## 5. Communication and training

### 5.1. Communication

This Policy shall be circulated to all CLEPA staff and made available to all CLEPA members via the CLEPA website and/or other appropriate media.

As part of their onboarding process, all CLEPA staff shall be required to confirm in writing that they have read and accept this Policy and shall comply fully with it.

Copies of the Policy shall be placed in visibly prominent positions in all CLEPA offices and meeting rooms.

Copies of the Policy shall be provided to all participants in CLEPA activities or programmes including all participants in any Working Groups or Committees.

### 5.2. Training

All CLEPA staff and all chairpersons of any Working Group or Committee shall be required to undergo approved training in relation to the Policy.

CLEPA shall offer such training both as part of the onboarding process as well as in the form of regular refresher trainings.

Approved training shall be in a standardised form validated by CLEPA's external legal adviser or the LAG and may consist of face-to-face training, webinars, or e-learning via the CLEPA website.

A register of participation in such trainings shall be compiled and maintained to ensure that all CLEPA staff members and all chairpersons of Working Groups or Committees are fully familiar with and have been trained in relation to this Policy.

## 6. Advice and reporting

CLEPA's Legal Manager is available for advice and guidance on all questions regarding this Policy and its applications in practice.

All CLEPA staff and all participants in the activities of CLEPA are encouraged to consult the Legal Manager if they have any questions or concerns regarding the compliance of certain initiatives, activities or procedures with the Policy.

The Legal Manager will inform the LAG once per year on the questions received and issues identified regarding compliance with this Policy.

CLEPA staff and other participants in CLEPA activities wishing to ask questions, raise concerns or report certain conduct on a **confidential** basis can do so with CLEPA's **Legal Manager** or with CLEPA's **external competition law adviser**. They will keep the identity of the individual, all information that would disclose the identity of the individual and any other information that the individual does not wish to be disclosed strictly confidential. Unless agreed otherwise with the individual, they must not share this information with any person inside or outside CLEPA. However, the Legal Manager can share the information with CLEPA's external competition law adviser.

## 7. Common responsibility

CLEPA shall take all appropriate measures to ensure its activities and programmes are in compliance with this Policy.

Notwithstanding the foregoing it is the responsibility of **each CLEPA member** to ensure that it and its representatives when involved in the activities of CLEPA:

- shall not undertake any activity which is an infringement of applicable competition law or antitrust rules, including entering into any prohibited agreements or exchanges of market-sensitive information with competitors;
- shall fully comply with the Policy and avoid any activity which is non-compliant e.g. attending informal meetings with competitors without an approved detailed agenda;
- shall support the relevant appointed CLEPA staff member and Working Group and Committee Chairs in ensuring the Policy is complied with in full;
- shall be vigilant and object against any conduct or behaviour which is an actual or potential infringement of the Policy

