

PROFESSIONAL BODIES

HOW CAN PROFESSIONAL BODIES
AVOID ANTITRUST RISKS?

DOs &
DON'Ts

Autorité
de la concurrence





DOs & DON'Ts

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CONDITIONS OF PROFESSIONAL ACTIVITY

DOs

- ✓ Establish a compliance programme and implement actions to raise awareness of competition rules among members and staff.
- ✓ Establish an agenda prior to each meeting and circulate it to members sufficiently in advance of the meeting.

DON'Ts

- ✗ Adopt rules that limit members' trade practices, notably advertising and promotional practices.
- ✗ Prohibit members from using contractual terms and conditions that differ from the standards developed by the body.
- ✗ Encourage members to avoid contracting with a particular operator.

DOs & DON'Ts

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PRICES

DOs

- ✓ Do not discuss individual pricing policies during meetings of the professional body.
- ✓ Do not discuss prices between members of the professional body.

DON'Ts

- ✗ Make recommendations on prices, production targets or the commercial policy of members.
- ✗ Issue messages implying that lower prices go hand in hand with lower quality.



EXCHANGE OF INFORMATION

DOS

- ✓ Record exchanges that take place during meetings⁽¹⁾.
- ✓ In the event of the disclosure of commercially sensitive information by a member during a meeting: intervene to stop the communication, ask participants to leave the meeting and report the behaviour to competition authorities.

⁽¹⁾ See, for example, the commitments made by the French Federation of Metal Distributors (Fédération Française des Distributeurs des Métaux) in the context of Decision 08-D-32, under which the latter set up a system to produce sound recordings of meetings so that the minutes could be as accurate as possible.

DON'TS

- ✗ Facilitate or allow the exchange of individualised data statistics, whether contemporary or historical, relating to prices, market shares or any other strategically important information.
- ✗ Facilitate or allow exchanges of business results for the current month or the previous month.
- ✗ Facilitate or allow exchanges in the form of round table discussions on commercially sensitive information (especially if this is not on the meeting agenda).



CONDITIONS OF MEMBERSHIP

DOS

- ✓ Provide membership criteria that are easily accessible, based on objective and verifiable conditions, and justified in relation to the nature of the profession practised.
- ✓ Specify the formalities for submitting an application for membership, set deadlines for responding and allow the applicant to be heard in the event of difficulties with membership.
- ✓ Communicate the membership conditions to any company that requests them.

DON'TS

- ✗ Establish rules of admission that are unclear, irrelevant, arbitrary or based on mere sponsorship.
- ✗ Refuse to admit a member without giving reasons for this decision.

DOs & DON'Ts

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STANDARDISATION/ CERTIFICATION

DOs

- ✓ Ensure that the requirements of any certification system are fair, reasonable and accessible to all companies that meet them.

DON'Ts

- ✗ Use the standardisation process to block the road to innovative competitors or raise technical barriers.



LEGAL ADVICE/ RELATIONS WITH PUBLIC AUTHORITIES

DOS

- ✓ Be particularly vigilant when providing legal advice that is price-related or which may deter members from using a category of products, services or professionals.

DON'TS

- ✗ When communicating with public authorities: prevent members from expressing a different position, make disparaging remarks or present misleading information.





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