



Competition Compliance Policy

Logistics with Integrity





AGILITY'S COMPLIANCE POLICY



Dear Colleagues,

All of us at Agility have a professional and moral obligation to do business honestly, ethically and lawfully. With that obligation comes a responsibility to know and adhere to the ethical and legal guidelines in the Agility Code of Business Ethics & Conduct.

Our Code of Conduct lays out clear standards on anti-trust and competition. We are committed not acting in any way that may restrain trade or reduce competition in the marketplace.

This “Competition Compliance Policy” booklet is designed to provide additional and practical guidance on:

- What the competition rules mean for us;
- Why it is essential that we comply with them;
- How to comply with competition rules in practice.

By doing business with integrity, we safeguard our reputation and strengthen the bond of trust that we have worked so hard to develop with customers, employees, suppliers, communities and shareholders.

Best regards,

TAREK SULTAN

Vice Chairman & CEO

COMPETITION COMPLIANCE POLICY: INDEX

1. HOW THIS BOOKLET WORKS	1
2. WHY DO WE NEED A COMPETITION COMPLIANCE POLICY?.....	1
3. WHAT ARE THE COMPETITION LAWS?.....	1
4. CONTACT WITH COMPETITORS	2
4.1 What's forbidden?	
4.2 Summary	
4.3 What's permitted?	
4.4 When you need to seek advice	
5. TRADE ASSOCIATIONS	7
5.1 What's forbidden?	
5.2 What's permitted?	
5.3 When you need to seek advice	
6. CONTACT WITH CUSTOMERS AND SUPPLIERS	9
6.1 Exclusivity	
6.2 Dealing with competitors as customers	
6.3 Dealing with competitors as suppliers	
7. WHAT TO DO IF SOMEONE ELSE IS NOT COMPLYING	10
8. COMMUNICATION AND USE OF LANGUAGE	11
8.1 Communication Language	
8.2 Examples of what to avoid	
8.3 Guidelines	
9. ABUSE OF DOMINANCE	12
10. COMPLIANCE SUMMARY	13
10.1 What's forbidden?	
10.2 What's permitted?	
10.3 When you need to seek advice	

COMPETITION COMPLIANCE POLICY

1. HOW THIS BOOKLET WORKS

This competition compliance policy booklet is designed to help you understand the following about how competition law applies to us:

- what we cannot do;
- what we can do; and
- when you need to seek advice.

It relies on a simple color code system:



RED shows behavior or agreements which are generally considered illegal in most countries and therefore **FORBIDDEN**. They should **NEVER** be engaged in or entered into by anyone in our business.



GREEN shows lawful commercial behavior. This is **PERMITTED**.



AMBER or yellow shows potential risk areas where **YOU MUST SEEK ADVICE** from our Legal Department.

This booklet is not a substitute for specific legal advice. If in doubt, consult our Legal Department.

2. WHY DO WE NEED A COMPETITION COMPLIANCE POLICY?

This booklet is intended to help you understand how competition law applies to our business activities, so that you can identify and avoid arrangements or behavior which are or may be prohibited.

The consequences of non compliance with competition laws can include:

- Heavy fines
- Damage claims
- Bad press
- Disqualification of directors or other senior personnel
- Administrative actions including fines, penalties and disqualifications from doing business
- Imprisonment
- Unenforceable agreements
- Termination of employment

3. WHAT ARE THE COMPETITION LAWS?

Any business practice which has the potential to interfere with fair competition in the market place may be caught by competition law.

Anti-competitive agreements

Competition law in most parts of the world, including the US and EU and many other countries in Asia Pacific, the Middle East and Africa prohibits agreements and arrangements among competitors that prevent, restrict or distort competition, or might do so - or are intended to do so. This applies to formal or informal agreements (including so-called “gentlemen’s agreements,” i.e. informal understandings) and exchanges of information, whether or not they are written, and whether or not they are legally binding.

The most serious example of an anti-competitive agreement is a cartel, where businesses agree on behavior which means that the market is no longer fully competitive. Typically, cartel members’ arrangements cover one or more of the following:

- Prices
- Discounts

COMPETITION COMPLIANCE POLICY

- Credit terms
- Output levels
- Which customers they will supply
- Which products and service they will provide
- Which geographic areas they will supply
- Who should win contracts or tenders

Competition laws therefore prohibit:

- **Price-Fixing:**

Any arrangement between competitors which seeks to fix prices (either directly or indirectly, for example through agreements on discounts, or agreements under which they agree to pass on surcharges or other costs). Businesses must make their own independent pricing decisions.

- **Market Sharing:**

Agreements by which competitors seek to divide or allocate their products or services, sales territories, or customers.

- **Information Exchanges:**

The communication of company-specific strategic information to competitors.

- **Bid Rigging:**

Bid rigging occurs when two or more competitors get together and decide who should win or bid for a contract or tender.

In summary, any business practice which has the potential to interfere with fair competition in the marketplace may be subject to competition law.

4. CONTACT WITH COMPETITORS


4.1 What's forbidden?

Never enter into any agreement, arrangement,



understanding or discussion with any of our competitors about any of the following:

(a) Price Fixing

 Pricing is critical in terms of competition. Businesses must determine their own pricing policy independently. Any arrangement which seeks to agree or fix prices (either directly or indirectly) will be prohibited.

Price fixing can take many forms, including agreements on:

- Minimum and/or maximum prices, or terms & conditions;
- Published price lists (where these prevent one party from offering discounts);
- Fixing part of a price (e.g. a surcharge or other charge);
- Agreements on currency adjustments;
- Profit margins (where parties agree to base prices on a set profit margin);
- Consultation (e.g. where one party agrees not to quote a price without consulting its competitors);
- Commissions for collection of surcharges; and
- Agreeing not to discount surcharges or other additional charges;

Price fixing is a criminal offence in the UK, the US and in many other countries.

EXAMPLE 1

A trade association meeting discusses fuel surcharges imposed by major airlines. One speaker asks for each of the freight forwarders to say how much of the surcharge they intend to pass on to customers and what kind of administration fee they intend to collect. Can you give them this information?

No. You must not give any information to any competitor about our prices or components of our pricing or pricing strategy, such as passing on surcharges. Competitors must each reach their own independent pricing decisions.

EXAMPLE 2

At an industry lunch you sit next to a representative from a competitor. He does not think they have a chance with a particular contract, but wants to put in a bid so they can be considered for future contracts. He asks for indications as to a price which would look realistic, but not be sufficient to allow them to win this work.

This is an attempt to put in a “cover bid”. This is a form of illegal price fixing. You must not give any indication to a competitor about our prices, or our bidding intentions, or reach any understanding or arrangement with them about bidding.

(b) Market Sharing or Allocation; Bid Rigging



Market sharing occurs where one or more competitors agree to divide a market or customers, for example, so they each get an equal or agreed amount of business, or so that one will do business in one area or with one group of customers, while another does business in a different area or with a different group of customers.

We must not become involved in any agreements or understandings to share markets, customers or business opportunities with our competitors.

We must make our own decisions about how and where our business operates. This includes making our own decisions about:

- Which services we will provide to a customer;
- Whether to bid for contracts or jobs;
- Who our customers shall be;
- Which territories we operate in;
- The prices and conditions we will offer any customer or prospective customer; and
- Terms and conditions relating to commercial issues such as liability.

Never enter into any discussion, understanding or agreement with any of our competitors on any issue relating to how or where we operate, whether we will or may bid for business, or the terms or conditions of tenders. This applies not only to bidding for contracts but also to any other business opportunities.

Market sharing is a criminal offence in the UK, the US and in many other countries.

EXAMPLE 3

At a trade association meeting attended by several freight forwarders, others discuss a proposal for each to take it in turn to win contracts by ensuring pre-agreed bids. You have some misgivings about this but stay quiet throughout.

This is an illegal market-sharing or bid rigging scheme. Your presence at the meeting, even if you stay silent, implicates you. You must object firmly and clearly, ask for your objections and departure to be noted, and leave the meeting. You must report what has happened to our Legal Department.

(c) Information Exchanges



Jurisdictions around the world are now penalizing companies that exchange certain types of information with competitors. Such “information exchanges” do not need to accompany an illegal agreement; the information exchange alone is sufficient to result in liability. It is also not required that the communication be bilateral or multilateral. It is sufficient that one competitor transmits information to another—even in the course of a single meeting.

Such illegal exchanges may take place in various business or social circumstances in which competitors get together. Not uncommonly, trade association meetings are used as a pretext for such exchanges (see Section 5 of this booklet).

Such illegal exchanges may also take place

indirectly, that is, where the information is passed by one competitor to another via a third party, such as a customer or consultant.

The prohibition applies to communication of company-specific strategic information that is, information which can be used to form commercial decisions. Examples of such information include the following:

- Price or elements of price- including surcharges;
- Discounts or rebates;
- Customer lists;
- Sales figures;
- Future products or services;
- Costs, including transport and fuel costs;
- Marketing plans/initiatives; and
- Planned investments.

The communication of strategic information is illegal only when it relates to company specific information. If the information is communicated to competitors in aggregated form (e.g. industry trends and statistics), the prohibition does not apply because the information, in this form, cannot be used commercially. However, if the data can be reverse engineered so that company-specific information is ascertained, the prohibition does apply.

Although the communication of one’s current or future (intended) conduct is most worrisome to antitrust regulators (and likely to result in the biggest fines), the communication of past data may also be prohibited and fined. The test is whether the information can still be used for a commercial purpose, which is for the Legal Department to decide; we expect that you will not communicate Agility’s historical commercial data to our competitors.

Nor does the prior “release” of such information to the press, a blogger or by posting it on a website make it legal to communicate the same information directly to a competitor.

You are therefore obliged not to communicate to (or receive from) competitors company-specific strategic information, whether it involves the past, present or future and regardless of whether it was previously posted, published or otherwise disseminated to the public or segment thereof.

Our Code of Business Ethics and Conduct states that if we have just hired a former employee of a competitor, we must not accept any confidential pricing information which he/she may have brought with him/her.

The employee should destroy the material or return it to the previous employer, and report such action to our Legal Department.

EXAMPLE 4

You are negotiating the price for a new contract with a customer. The customer says that you need to offer a better price than competitor X (i.e. a named rival company). The customer tells you the price which competitor X has offered the customer. Can you use this price information?

Yes. Where a customer has voluntarily given you information about competitors’ prices, you can use that information to help make pricing decision. However, you should not actively solicit this information.

It is also forbidden to get a competitor’s prices by pretending to be a prospective customer, as this is a form of deceit and is an improper form of business behavior.

EXAMPLE 5

In a trade association meeting of forwarders, the Chairman passes out to the members a set of aggregate sales figures covering the last quarter. He points out that sales slumped, but that in the final weeks, there was an upsurge in air cargo traffic, which pointed to increasing sales in the current quarter. Forwarder X asks Forwarder Y, “How did you do?” Forwarder Y divulges not only its turnover for the last quarter, but also volunteers that he will have to raise prices to make up the shortfall from last quarter. The Chairman leaves the meeting room for few minutes. While he is gone, there is whispering around the room about the need to raise prices. Is this legal?

No. In this case, there has been a discussion among competitors of future pricing intentions. This is a severe form of infringement to anti-competition laws. You must distance yourself from the illegal remarks by insisting on mentioning your disapproval in the meeting minutes, then by leaving the meeting and reporting the incident to our Legal Department.

(d) Collective Boycotts (Collective Refusals to do Business)



A collective boycott occurs when two or more competitors agree not to do business with a particular firm. This is illegal. Businesses must make their own

COMPETITION COMPLIANCE POLICY

decisions about whom they do business with. It is also illegal for competitors to agree that only one of them will not do business with a particular firm or for two or more competitors to threaten or to force one business not to deal with another business, such as a competitor or supplier.


You must not engage in any conduct or enter into any agreement or arrangement (whether formal or informal, whether or not in writing) with a competitor or a non-competitor whereby you refuse to deal with a particular firm or individual for any reason whatsoever.

EXAMPLE 6

During a trade association meeting, discussions turn to the performance of a particular airline. Someone suggests that the various freight forwarders collectively agree not to deal with that airline unless it improves its performance.

This appears to be an illegal collective boycott/refusal to do business. You must orally register your disapproval at the meeting, insist that it be reflected in the minutes of meeting, leave the meeting and report what has happened to our Legal Department.

4.2 Summary

 You must be particularly careful about dealing with competitors, and **must not** discuss with any competitor:

- Prices
- Price changes

- Discounts
- Costs
- Warranties
- Confidential information, such as details of sales, revenue, contract terms, or business opportunities
- Terms of sale
- Marketing initiatives

This extends to any discussion about subcontractors and their terms of business (e.g. how much they are charging).



You must not under any circumstances:

- Discuss how to keep a company (e.g. a competitor) out of any market;
- Divide up different projects or work with another competitor or competitors (other than on a normal co-loading or subcontracting arrangement);
- Agree to leave another competitor's customers, locations, areas or opportunities alone; or
- Make any agreement or reach any understanding with a competitor which allocates sales, territories, customers, tenders, opportunities or services between us and that competitor or other competitors.

4.3 What's permitted?



Contacts with competitors are a highly sensitive area from a competition law perspective. There are therefore very few contacts that are allowed, though discussions which will not and could not have any impact on the commercial behavior of the parties are less likely to give rise to concern.

Discussing the following is unlikely to be problematic (as long as the discussion does not also cover other, potentially sensitive, areas):

- Regulatory changes and compliance requirements (such as proposed changes in legal or regulatory requirements which apply to everyone);
- Industry trends and statistics;
- Government or European policy;
- Industry lobbying and promotion initiatives;
- Health and safety information; or
- Industry employment and training issues.

4.4 When you need to seek advice



If you have any doubts whether the discussion is likely to or could:

- Affect future commercial strategy, product or service composition;
- Lead to a change of strategy in the short to medium term;
- Lead to an immediate or short term change in behavior relating to prices, services offered, discounts and surcharges.

Contact our Legal Department before you enter into, or continue with the discussion.

If in doubt, seek advice!

5. TRADE ASSOCIATIONS

Competition authorities believe that trade associations are often used as a cover for illegal cartels. Information exchanges, as discussed in Section 4.1 (c), are of particular concern.

If you are to attend trade association meetings, or go to any other event where competitors may be present, remember:

5.1 What's forbidden?



5.1.1 Do not discuss (nor even appear to discuss) any of the following types of information at any trade association meeting (or anywhere else with competitors):

- Pricing or other terms given to customers, including agreeing the extent to which fuel, war or other surcharges will be passed on to customers (or any associated costs, e.g. financing, collection, administration, etc.);
- Individual company price changes, price differentials, mark-ups, discounts, allowances, credit terms or related financial issues;
- Service capacity of individual companies, or changes in industry production, capacity or inventories;
- Bids on contracts for particular products and the procedures for replying to bid invitations;
- Any individual company's costs;
- Terms on which we or any of our competitors usually do business, whether with airlines, shipping lines, truckers or customers;
- Allocation of markets, customers, contracts, sites, regional areas, or types of services;
- Details about potential individual suppliers or customers which might exclude them from the market or influence other companies' behavior towards those suppliers or customers; or
- Any company-specific business plans, marketing initiatives, market share data or any other confidential information, including proposed territories or customers.

5.1.2 Do not allow any industry benchmarking or cost control initiatives which a trade association may prepare to have any

'spill-over' effects. For instance, a fuel and security surcharge report database should not be used as a cover to reach price or volume or market sharing agreements, or collective boycotts of airlines with high surcharges.

5.1.3 Make sure that **written agendas** are prepared for all trade association meetings, are circulated in advance, approved by the Legal Department, and are strictly followed.

5.1.4 Make sure that **full minutes** are made of the discussions at each meeting and that such minutes are provided, in draft form, to the Legal Department for its approval - do object if those minutes are not completely accurate.

Do not allow business related discussions at trade association meetings (or at the associated meals, breaks, and social events) to go beyond the written agenda.

5.1.5 What should you do if those points are discussed?

If any of the above prohibited subjects referred to in 5.1.1 – 5.1.4 are raised during a meeting at which you are present, including in a telephone conversation or an informal conversation/meeting, you must orally register your disapproval and insist that it be reflected in the meeting minutes, and then leave the meeting.

If any of the above subjects is raised at a social occasion, whether or not within the context of a trade association meeting, you must orally register your disapproval to your colleagues and leave.

You must make a careful and thorough note of what happened, i.e. that a sensitive prohibited

issue was raised which you refused to discuss and that you left the discussion if the other parties carried on despite your objections, and pass it immediately to our Legal Department.

Crucial evidence for investigations by competition authorities is often contained in manuscript notes of telephone conversations, or internal memos passing on information received from competitors.

Remember that:

- There is no such thing as an “off the record” discussion to the competition authorities;
- Other participants in such discussions may disclose them to competition authorities, even if you seek to keep them quiet.

Please see Section 8 of this booklet on communication and use of language.

Problematic contacts include:

- Attendance at any trade association meetings, conferences or seminars where competitors are present; and/or
- Telephone calls, emails and text messages to competitors or other trade association members.

5.2 What's permitted?



At any trade association meeting or during other discussions with competitors, you may discuss:

- Regulatory changes and compliance;
- Industry trends and statistics;
- Government or European policy;
- Industry lobbying and promotion initiatives;

- Health and safety information;
- Industry employment and training issues; and
- Research and development.

In other words, information that is about the market in general and not commercially sensitive, or company or site specific, can be discussed with our competitors. Information concerning matters such as prices, capacity, production, investments, commercial strategy and views on the evolution of market conditions should not be discussed.

5.3 When you need to seek advice



It is not always easy to distinguish between legitimate trade association activity, and unlawful activity. If you have any doubts, please seek guidance from our Legal Department.

6. CONTACT WITH CUSTOMERS AND SUPPLIERS

Most companies can be flexible about their trading terms with their suppliers and/ or customers. Some restrictive provisions, especially relating to pricing, can be anti-competitive and are therefore prohibited. As a general rule, if any contract terms are requested or an agreement or understanding is reached (remember that agreements need not be in writing), which you think may be unlawful, seek advice from our Legal Department.

6.1 Exclusivity



In principle, there is no objection to entering into exclusive arrangements with customers or suppliers provided the term (duration) of the agreement is not excessive. As a general rule, the term should



be kept to five years or less and should not automatically continue after five years.

Advice should be sought from our Legal Department in relation to any long term exclusive agreements, i.e. exclusive agreements for more than 5 years and exclusive agreements which will automatically continue unless terminated by either party (evergreen agreements)

6.2 Dealing with competitors as customers



This area often raises concerns under competition law, so consult our Legal Department before entering into any of these arrangements.

Be particularly careful, if negotiating with competitors as customers (for example as a sub-contractor on certain lanes) not to reveal commercially sensitive information. For example, do not disclose:

- Prices and terms offered to other customers;
- Details of such customers or services where they are not already known;
- Our costs; or
- Any marketing initiatives or confidential information which would enable the competitor to adjust its behavior.



Any preferential terms offered to competitors as customers in exchange for an agreement to withdraw from one of our markets would be a clear breach of competition law. Similarly, no agreement or commitment should be made to a competitor to behave in a certain way (e.g. staying out of a market, not bidding in a tender, etc.) in exchange for payment of a higher price or a contract/subcontract award. If this is suggested during negotiations, you should decline immediately.

6.3 Dealing with competitors as suppliers



This area can raise concerns under competition law, so consult our Legal Department before entering into any of these arrangements.

Competitors can also be suppliers, for instance where shipping lines offer Agility and its customers vessel capacity. Large customers can go direct to a shipping line to book suitable vessel capacity, without using a forwarder such as Agility. Competition can therefore exist between Agility and the shipping line to attract business from such large customers.



Be particularly careful when you are negotiating with competitors as suppliers; so that you do not restrict competition between Agility and the supplier. Make sure that you do not:

- Disclose any Agility-specific sensitive information;
- Agree to any commitment to a carrier about the price Agility will charge for freight;
- Restrict the terms on which Agility does business, e.g. through any non-compete or exclusivity clauses, without taking legal advice;



- Restrict a carrier's freedom to set prices to others; or
- Circulate any price information through carriers to competitors.

7. WHAT TO DO IF SOMEONE ELSE IS NOT COMPLYING

The competition rules discussed in the previous sections apply to our trading partners and competitors as much as they do to us.

We may be the victim of anti-competitive agreements or behavior by our competitors, contractors or sub-contractors.



- If, for example, you notice:
- Similar or identical prices;
 - Similar or identical terms of business; or
 - Surprising bids or failure to bid from several contractors or sub-contractors, they may be breaking competition law.

Bring any suspicions to the immediate attention of our Legal Department. This is crucial to protecting our interests!

8. COMMUNICATION AND USE OF LANGUAGE

8.1 Communication Language

Be careful about the language that you use, whether in writing, e-mails, text messages or conversations. Always ask yourself how your language might be interpreted by a competition authority.

E-mails, texts and voicemail messages can be accessed by the competition authorities or in legal proceedings. Simply deleting them is ineffective and may well be illegal. Competition authorities often find that e-mails, texts and voicemail contain the most damaging statements.

Many internal documents are likely to come under scrutiny during an investigation or legal proceedings involving a third party, even those which you might believe to be confidential, such as diaries, telephone calls or personal notebooks. "Documents" are not limited to papers, but will include any form in which information is recorded: computer records and databases, e-mails, microfilms, tape recordings, films and videos can all be examined.

In particular, be aware that the principal evidence of anti-trust authorities for their use against cartels is obtained from leniency applicants, who are either promised immunity or a substantial reduction in fines for their production of evidence incriminating others. Leniency applicants make a special effort to produce all incriminating emails, notes and memoranda that they have.

8.2 Examples to Avoid

Avoid these types of language:

"This is a great initiative ... However, a word to the wise, never ever put anything in writing, it's highly illegal and it could bite you right in the arse!!!! Suggest you phone Lesley and tell her to trash?"

E-mail cited in the UK Office of Fair Trading Decision, dated 21 November 2003, 'Agreements between Hasbro U.K. Ltd, Argos Ltd and Littlewoods Ltd fixing the price of Hasbro toys and games.' Littlewoods was fined £5.37 million and Argos £17.28 million.

'[ABC] has a longstanding relationship with this consignee and they [ABC] have handled their airfreight business since 2000. They know we handle their ocean freight business. They will leave their ocean freight business to us if we do not attack their airfreight business. We should accept this proposed gentlemen's agreement.'

8.3 Guidelines

Remember:

- Whenever you intend to write something down, especially in an e-mail, consider how it might look to the competition authorities;
- State clearly the source of any price information or other commercially sensitive information, so as not to give the false impression that it came from a competitor;
- Follow the same rules if writing on or summarizing copies of notes or memoranda

COMPETITION COMPLIANCE POLICY

originated by customers; and

- Hand-written notes can be used as evidence.

Avoid language which wrongly suggests that:

- A customer is getting special treatment. For example, if a customer is getting our lowest price because it buys more of our services than anyone else, then make sure that this entirely legitimate reason is made clear to it and documented as well;
- An industry view has been reached on a particular issue, such as price levels; or
- Our prices are based on anything other than our independent business judgment.

Do not:

- Use incriminating language such as “please destroy” or “delete after reading”.
- For example, the European Commission used the following hand-written note at the top of a table setting out adjusted market quotas between companies as evidence in a competition case: “to be destroyed completely...EU case looks bad. Be careful”; or
- Speculate in writing about whether an activity is illegal or legal.

9. ABUSE OF DOMINANCE

Despite our analysis to the contrary, in certain countries, antitrust regulators may believe that Agility is in a dominant position. In a number of jurisdictions, it is contrary to the competition rules for a company to “abuse” its dominant position. Agility employees based in these jurisdictions or doing business with customers there should therefore be mindful not to violate these rules when they are applicable.



There are a number of factors taken into account when determining whether a company is dominant. In most cases, antitrust authorities will not find dominance unless the company has a market share of over 40%. If you believe that your national market share exceeds this percentage, then the remainder of this section applies to you.

Where Agility is deemed to be dominant on any market, Agility may be deemed to commit an abuse of its position by engaging in the following conduct:

- Refusal to supply an existing customer without objective justification (such as past record of non-payment, bad credit etc);
- Discriminatory pricing (such as by charging a competitor-customer a higher price than an industrial customer);
- Predatory pricing (pricing at less than our costs in order to drive out a competitor);
- Entering into exclusive long-term purchase or supply contracts (i.e. longer than 5 years);
- Providing loyalty-based discounts and/or rebates (i.e. where the reward mechanism is not based strictly on quantity purchased); and
- Tying of separate products and services (i.e. customer must buy them as bundled together).

If you suspect that Agility is dominant, you must obtain the clearance of our Legal Department when you have doubts as to the legality of the proposed conduct and certainly, before carrying out any of the above acts.


10. COMPLIANCE SUMMARY

This summary should be read in conjunction with all the previous sections.

10.1 What's forbidden?

(a) Dealing with Competitors


DO NOT:

 Discuss, recommend or agree with competitors, whether at trade association meetings or in any other context, the following matters:

- Prices, or any element of price (such as surcharge or commission), rebates or discounts, or profit margins;
- Costs;
- Restrictions on capacity or services;
- Division or allocation of geographic territories;
- Division or allocation of customers;
- Standard terms of business, or other terms;
- Any plan to refuse to deal with customers or suppliers;
- Any plan to coordinate bid tendering;
- Marketing or promotional plans; or
- Provide or agree to receive any company specific strategic data (such as prices or sales volume) unless it has been previously approved by the Legal Department, even if said information is “historical” or has been previously released, published or posted on a website.


(b) Trade Associations

DO NOT:

-  Attend or participate in trade association meetings unless all of the following conditions are fulfilled:
- A copy of the agenda for the meeting has been prepared and given to our Legal Department in advance;
 - Our Legal Department has authorised the meeting and approved the agenda;
 - Minutes of the meeting are taken, and such minutes, in draft form, are submitted to our Legal Department for approval; and
 - The members at the meeting strictly adhere to the prepared agenda, which should be limited to industry-wide concerns, such as finding environmental solutions, improving health and safety standards, or improving consumer knowledge of the product.

(c) Documentation Issues

DO NOT:

-  Destroy or discard any document which may be considered evidence of liability for anti-competitive activity. Rather, bring the document immediately to our Legal Department;
- Write memos, notes or emails which may create the false impression that Agility is engaged in anti-competitive activity. Examples of such careless notes are “destroy after reading” or “the industry should raise its prices” or “we need price stability”;
 - Forget that everything you write down and leave on company premises or at home, whether it is in the form of documents, memoranda, notes, your diary, emails or Blackberry, can be discovered by regulators in an investigation. You should

be careful because the evidence obtained can be used against Agility or even against you; or

- Hesitate to report instances of anti-competitive conduct immediately to our Legal Department, rather than to hide such activity or destroy evidence of it.

10.2 What's permitted?



(a) **Dealing with Competitors (both within and outside trade association context)**

YOU CAN discuss industry statistics and trends or regulatory issues as long as the discussion does not also cover other potentially sensitive areas.



(b) **Dealing with Customers**

YOU CAN obtain information about our competitors, as long as it is clear that the customer is not passing the information to you at your request or at the request of the competitor.

10.3 When you need to seek advice



(a) **Dealing with Competitors (both within and outside trade association context)**

ASK FOR ADVICE:

- When you are planning any form of business collaboration with a competitor; and
- When you think you have participated in, or heard about, any meeting of competitors that seems suspicious.



(b) **Dealing with Customers**

ASK FOR ADVICE IF:

- We are giving better terms to one customer to the detriment of another;

- Considering entering into an exclusive contract;
- The customer is also a competitor; or
- If a customer is passing to you company specific information regarding a competitor on a systematic basis.



(c) **If you suspect that Agility is dominant on any market**

ASK FOR ADVICE BEFORE:

- Providing any rebates and discounts except quantity related ones which are linked to cost savings for Agility;
- Selling a product/service at below our costs without the express prior authorization of our Legal Department;
- Discriminating against certain customers, particularly when the customer is also a competitor;
- Refusing to supply any actual or potential customer (unless there is a record of nonpayment, poor credit history etc); or
- Tying the sale of separate products/ services, that is, bundle them and refuse to sell them separately.

If in doubt, ask for advice





Corporate Office
Kuwait
T: +965 1 809 222
info@agility.com