

## COMPETITION CODE OF CONDUCT FOR THE CENTRE FOR DEVELOPMENT RESULTS (THE "CENTRE")

### 1 COMPETITION LAW COMPLIANCE COMMITMENT

The Centre is committed to complying with all applicable competition laws. The most serious types of competition law infringement which may be relevant to the Centre and its members include:

- **Price fixing** – any arrangement between competitors which seeks to fix prices charged to customers (either directly or indirectly, for example through agreements on discounts or promotions or discussions on profit levels);
- **Market sharing** – agreements which seek to divide or allocate customers or geographic areas between competitors;
- **Bid rigging** – agreements between two or more competitors as to who should win or bid for a contract or tender; and
- **Sharing commercially sensitive information with competitors** – any exchange of information which provides insight into competitors' strategic intentions and includes pricing, other terms offered to customers, costs and marketing initiatives. Information exchange can be direct or indirect (for example, indirect exchange via a customer, supplier, adviser or other intermediary).

### 2 CENTRE RULES FOR ENSURING COMPETITION LAW COMPLIANCE

Members of the Centre **MUST** abide by the following rules:

- Members must not engage in price fixing, market sharing, bid-rigging or the exchange of commercially sensitive information.
- Members must make independent commercial decisions at all times.
- Industry benchmarking initiatives must not be entered into without prior approval from each member's usual legal provider.
- Written agendas must be prepared for all Centre (or other trade association) meetings, circulated in advance to all members and their legal counsel.
- Full notes must be made of the discussions at each meeting – do object if those notes are not correct.
- Business-related discussions at Centre meetings (or at the associated meals and social events) must not go beyond the written agenda.
- If any of the issues at Section 1 above are discussed in any context (including any telephone call or an informal conversation/meeting), members must make clear that they cannot discuss these subjects and must leave if the discussion continues.
- Any member who leaves such a discussion must make a careful and thorough note of what happened (i.e. that (i) a sensitive prohibited issue was raised which they refused to discuss; and (ii) they left the discussion if the other parties carried on despite their objections). Make this note with the member's legal counsel.

- 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.

#### 2.1 **Members **MAY** discuss non-commercially sensitive information:**

- Regulatory changes and compliance;
- Government policy;
- Industry lobbying and promotion initiatives;
- Health and safety information;
- Industry employment and training issues;
- Research and development; and/or
- Other information about the market in general which is not commercially sensitive, or company specific.

In other words, information that is about the market in general and not commercially sensitive, or company specific, can be discussed with competitors.

#### 2.2 **Members **MUST NOT** discuss commercially sensitive information:**

- Commercially sensitive information includes e.g. prices, investments, commercial strategy, customer details, costs and views on the evolution of market conditions.
- Members must not discuss any of the sensitive topics outlined in Section 1 above.

#### **Remember that:**

- For competition authorities, nothing is an “off-the-record” communication.
- Other participants in such discussions may disclose them to competition authorities.

### 3 **WHEN TO SEEK ADVICE ON COMPETITION LAW**

It is not always easy to distinguish between legitimate trade association activity and unlawful activity. If members have any doubts, please seek guidance from your usual legal provider.

### 4 **COMPETITION COMPLIANCE TRAINING REQUIREMENT**

Members must provide relevant employees with periodic competition compliance training.

In addition, any person or body who/which wishes to become a member of the Centre must first provide competition compliance training to relevant employees.

**Berwin Leighton Paisner LLP (JMRL, NYOU)**  
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