



CEMEX

Global Antitrust Compliance Policy

"We at CEMEX have a long-standing commitment to ethics and integrity, which allows us to conduct our business in a fair and transparent manner. All business strategies carried out at CEMEX are based on the principle of fair trade and competition. It is CEMEX's firm and definite policy to conduct all our actions in strict conformity with all applicable antitrust laws".

-Fernando González Olivieri,
CEO.

Updated by:	Raúl Sergio Salinas Tijerina Director of Compliance, Corporate Governance and E-Business (Neoris)
Approved by:	Ramiro Villarreal Morales Executive Vice President Legal and Secretary of the Board



Introduction:

The purpose of the CEMEX Global Antitrust Policy (the “Policy”) is to promote compliance with antitrust laws applicable in countries where we operate. Antitrust laws are designed to:

- Guarantee free and open competition in a capitalist economy; and
- Prohibit anti-competitive behavior by either individual players acting alone or multiple players acting together.

This Policy intends to cover basic principles of antitrust laws and regulations that apply to our normal course of business, as well as relations between CEMEX and its clients, customers and suppliers, allowing for the identification of risks and problem areas, as well as problem-solving mechanisms within CEMEX.

CEMEX expects all of its employees to report any instance of non-compliance with the law and to inquire about any activity that might not comply with the law.

Scope

This Policy applies to all employees, personnel, suppliers and customers of CEMEX, S.A.B. de C.V., and its subsidiaries and affiliates (collectively, “CEMEX”).

What are the Antitrust Laws?

Antitrust laws prohibit business practices that limit competition. Under antitrust laws, agreements and arrangements that prevent or restrict competition, or intend to do so, may be considered illegal, whether such agreements are written or oral, formal or informal.

It is important to note that, under competition laws, agreements do not necessarily require formal legitimacy to be considered to be in violation of these laws. An agreement does not need to be in writing, or even have to be based on a verbal agreement; illegal agreements may be inferred from conducts and other data such as:

- Telephone calls
- Emails
- Meetings
- Being seen at the same trade shows
- Conduct in bidding situations
- Timing of pricing decisions
- Participation in trade association meetings

What do Antitrust Laws target?

- Acting with others: It is illegal for two or more parties to get together to unreasonably restrain trade.
- Acting Alone: A company may not illegally monopolize or try to monopolize a product, a service or abuse of the dominant position.

NOTE: Competition laws do not prohibit all restraints on trade, only those which are unreasonable.

Why Do You Need to Understand Antitrust Law?

Each CEMEX representative is responsible for ensuring that he or she does not violate any antitrust laws or this Policy. It is important to remember that:

- CEMEX is a global company with business in all corners of the world.
- Over 100 countries have specific antitrust laws.
- Antitrust enforcement is mostly conducted by cooperation between governments worldwide.
- Our business dealings may impact more than one country and, therefore, be subject to different antitrust laws.

CEMEX employees, directors, clients, and customers need to be familiar with this Policy, as well as with local laws as they may apply to you. You must be able to recognize when to seek advice of your legal counsel.

Main examples of Anti-Competitive Agreements

Certain types of agreements are illegal as is; under these circumstances, the purpose or intent of such agreements is irrelevant. These include, but are not limited to:

a) Cartels

- (i). Price Fixing
- (ii). Trade Association Meetings
- (iii). Market Allocation
- (iv). Limiting production

b) Relationships with Customers and Suppliers

- (i). Customer Selection and Refusal to Deal
- (ii). Tying/Reciprocal Dealing

- (iii). Arrangements with Distributors and Dealers
- (iv). Cooperative Purchasing

c) Relationships with Competitors

- (i). Boycotts
- (ii). Industry Surveys

d) Anticompetitive Corporate Transactions

- (i). Mergers and Acquisitions
- (ii). Joint Ventures

e) Price Discrimination

- (i). Discrimination in Merchandising Support
- (ii). Buyer Liability
- (iii). Fictitious Brokerage

f) Monopolization

- (i). Monopoly Power
- (ii). Unlawful Acquisition or Maintenance of Monopoly Power

g) Patents

- (i). Fraud on the patent office.
- (ii). Bad faith enforcement
- (iii). Restrictive licensing practices

a) Cartels

Cartel arrangements are one of the most common forms of anti-competitive agreements. These involve scenarios in which companies agree not to compete with each other, including through price-fixing, output restriction, bid rigging, or allocation or division of markets or regions. Cartel arrangements usually cover prices, credit terms, discounts, customers and areas of supply, who will win contracts and tenders, among others. Participation in a cartel may lead to severe penalties, including imprisonment of the employees involved.

(i) Price Fixing

Price fixing occurs when competitors make agreements through which they intend to fix trade prices, for example, through agreements on discounts. To avoid price fixing allegations:

- Never discuss the prices at which you each sell to your respective customers.
- Limit discussions strictly to terms on which you will sell to competitor if they are also a customer; if necessary, build a wall between those working on the deal and those who handle the competitive operations.
- All bids for works must be independent; never share bid strategies with a competitor.
- Never exchange non-public information unless approved by Legal.
- Follow all internal Legal and Management guidelines in due diligence or post-merger integration processes.
- Avoid any acts that may be construed as an anticompetitive price determination (review with the legal department any announcement for increase in prices).

(iv). Trade Associations Meetings

Trade association meetings can be legitimate forums for discussing legislation, safety, public policy, and other relevant matters that surround trade and markets. Trade association meetings must not be used or perceived as an opportunity to form or maintain a cartel.

It is important to remember that these are meetings with competitors and therefore, the following should be taken into consideration:

- Attend only meetings that are absolutely necessary.
- Association meetings should have an antitrust policy statement read before the meeting and a lawyer should be present to monitor all topics.
- Have and follow an agenda for each meeting. Draft a minute after each meeting and ensure all members present sign it.
- Conversations about prices, markets, customers, volumes, strategy, etc must be avoided, during and even after any of these meetings.
- If any conversation goes off topic:
 - Excuse yourself as loudly and as memorably as you can;
 - Call the Legal Department for further advice.

(iii). Market Allocation

Decisions about when, where and how you do business should be made internally. Agreements between competitors to divide markets, territories or customers are generally illegal. Additionally, it is prohibited to collude with competitors about sharing the market, agreeing not to sell in the same geographic market or to the same customer, and/or

agreeing that one competitor will be a lower bidder in any procurement. A key element to define market allocation might be a dominant market position that translates into the abuse of such market power by having control of the prices or which can exclude competition in the relevant market in order to decrease competition. Any commercial agreement that involves a non-compete must be reviewed and approved by Legal.

(iv). Limiting Production

Limiting production by controlling the amount of goods or services that are being produced or provided is illegal when such actions are intended to ensure that prices remain high for the benefit of select competitors, customers and/or suppliers.

b) Relationships with Customers and Suppliers

CEMEX must deal with customers and suppliers fairly in a manner that best advances the competitiveness of CEMEX's products and services.

(i). Customer Selection and Refusal to Deal

A company has the right, acting alone and in good faith, to select those with whom it wishes to negotiate and deal, and also refuse to do so for any reason, as the case may be. However, a refusal to deal that has been agreed, or even discussed, with another company may constitute an illegal agreement, whether the other company is a competitor, customer or supplier.

(ii). Tying & Reciprocal Dealing

A tying arrangement occurs when a seller agrees to sell one product only on the condition that the customer purchases a second product. CEMEX will let its customers freely decide the products they want to buy. CEMEX shall not use its market power to condition the sale of a desirable product on the purchase of an undesirable one. A similar type of transaction is reciprocal buying, which occurs when a seller agrees to sell one product to the buyer on the condition that the buyer sell it a different product. Reciprocal buying can be illegal if coercion is used.

Tying arrangements may constitute antitrust violations in certain circumstances, which include:

- **Two products.** Tying is only illegal when it involves two separate products. Tying separate components of a single product, such as tires on an automobile, is legal.
- **Conditional sale.** For a tying arrangement to be illegal, the buyer must be forced to purchase the second product. No tying will be found if the buyer has the practical

ability to purchase the desired product alone, even if a higher price is charged, or if the buyer prefers to purchase a package of two or more products.

The Legal or Compliance Department must be consulted about any tying or reciprocal buying transaction where these circumstances are present, or where a customer might argue that they are present. The transaction might still be legal, depending on other circumstances, but the antitrust risk is significant. A review for antitrust compliance is essential.

(iii). Arrangements with Distributors and Dealers

Consider that many of CEMEX's dealers are competitors of one another. CEMEX may face antitrust liability if it is found to have helped anticompetitive agreements among the dealers.

To avoid the aforesaid risk, CEMEX employees must avoid participating in exclusive or restricting deals with distributors and dealers. Examples of such restrictions include:

- “Exclusive” arrangements;
- Restricting distributors/dealers to certain territories;
- Restricting distributors/dealers to certain customers;
- Restrictions on the handling of competing products;
- Resale price maintenance; and
- Preventing competition among distributors/dealers.

(iv). Cooperative Purchasing

The participation of competitors in a cooperative buying arrangement can be legal, particularly when it achieves efficiency. However, these arrangements can carry significant risks of antitrust liability, particularly if a court determines that the arrangement serves to facilitate a cartel among the participants. All cooperative buying arrangements must be reviewed with the Legal or Compliance Department.

c) Relationships with Competitors

In addition to avoiding cartels, CEMEX must ensure that its business deals with any competitor comply with the antitrust laws.

(i). Boycotts

Boycotts are usually understood as any agreement or understanding between suppliers and/or customers that they will not sell to, purchase from or deal with particular outsiders.

Examples include agreements not to sell to price cutting competitors, joint refusal to buy from suppliers, or agreement not to sell to a customer unless he discontinues buying from a competitor. Do not participate in joint boycotts with competitors. Any decision to not deal with a party should be made internally, and based on legitimate business reasons.

Employees should avoid the following types of agreements, which may be viewed as illegal boycotts:

- An agreement among competitors not to do business with particular suppliers or customers.
- An agreement among certain competitors not to collaborate or do business with other competitors.
- An agreement to the request of two or more customers, or two or more suppliers, not to do business with competitors of the companies making the request.

(ii). Industry Surveys

CEMEX may be asked to participate in a survey that collects and publishes information about pricing, sales volumes and other sensitive information. If these surveys are undertaken without following certain precautions, they can result in antitrust liability for the participating companies. Therefore, no employee should contribute or subscribe to an industry survey without first discussing the survey with the Legal or Compliance Department.

d) Anticompetitive Corporate Transactions

(i) Mergers and Acquisitions

Some corporate transactions may violate antitrust laws if they impair competition. In many markets, mergers, acquisitions, and joint ventures are highly regulated through applicable antitrust legislation by the corresponding authorities. Remember:

- When you are participating in due diligences or negotiations related to merger transactions, you may come into contact with sensitive competitor information.
- Be sure to follow the terms of any applicable confidentiality agreements, as well as local antitrust law.
- Do not share competitor information with other CEMEX business units.
- Remember that the documents you create in relation to a merger, acquisition, or joint venture (including handwritten notes, e-mails -even if deleted- and drafts of documents, whether kept at the office or in a private place) can be requested by

the government for review. Draft responsibly.

(ii) Joint Ventures

On occasion, CEMEX may collaborate with one or more competitors to share certain functions, such as production, sales, or research and development. The collaboration may take the form of a joint venture. If these collaborations are designed and managed carefully, they will not violate the antitrust laws, even if they involve some restrictions on competition between the joint venture parties. However, the task of conforming these joint ventures to the antitrust laws is very complex. If it is not done correctly, CEMEX is exposed to serious and unnecessary antitrust risks, including potential liability for a cartel agreement. Therefore, the following rules apply to any form of collaboration with an actual or potential competitor:

- Before beginning any discussion with a competitor concerning a potential collaboration, consult with the Legal or Compliance Department.
- Have the Legal or Compliance Department monitor all communications with competitors during the formation of a joint venture or collaborative agreement. Any restriction on communications imposed by the Legal or Compliance Department must be followed.
- Before any joint venture or collaborative agreement with a competitor is finalized and implemented, the Legal or Compliance Department issues rules for CEMEX's participation. Those rules must be followed.

e) Price Discrimination

Antitrust laws prohibit companies from charging different prices to different customers in certain circumstances. Several factors must be present to violate such provisions, such as:

- **Goods.** Price discrimination law applies only to sales of goods, and in some cases, to that rendering of services.
- **Sales.** Only completed sales can lead to illegal discrimination. Offers to sell at lower prices, or refusals to sell at a low price, do not qualify.
- **Two purchasers.** The goods must be sold to two or more different purchasers. A subsidiary or affiliate of the seller is not a purchaser, and its receipt of favourable pricing is not illegal.
- **Different prices.** Discrimination exists only when the two purchasers pay different prices, after taking into account all applicable discounts and rebates.

- **Contemporaneous.** The sales must be made at about the same time. Price changes made from time-to-time and seasonal discounts will not support a finding of price discrimination.
- **Like grade and quality.** The two sales must involve products of like grade and quality. Charging a higher price for a premium grade is not illegal.
- **Competitive injury.** Price discrimination is illegal only if it leads to a competitive injury (a negative impact on competition). There can be injury if the customer paying the lower price takes business away from the customer paying the higher price. The injury can be further down the chain of distribution. For example, a favoured wholesaler may pass its lower price on to retailers who take business away from other retailers who are supplied by the disfavoured wholesaler. No injury is likely to be found if:
 - the discrimination occurs between end users;
 - the discrimination occurs between customers who do not compete, directly or indirectly; or
 - the price difference is too small or too short in duration to have an impact on competition between purchasers.

(i). Discrimination in Merchandising Support

If a seller supports its customers in advertising, promoting or reselling its products (for example, by granting allowances or performing or subsidizing services), it must offer that support to all competing customers on proportionally equal terms. Discrimination in merchandising support is a violation of the antitrust laws and can expose CEMEX to liability for damages to disfavoured customers.

(ii). Buyer Liability

When a seller violates the antitrust laws by discriminating in price or merchandising support, the buyer can also be liable if it knowingly receives the benefit of the discrimination. Any employee who suspects that one of the CEMEX's suppliers has discriminated on price or merchandising support must report the incident immediately to the Legal or Compliance Department.

(iii). Fictitious Brokerage

Antitrust laws prohibit sales in which one party pays a commission or brokerage to the other, or to an agent of the other, except for services rendered. The laws also prohibit the seller from giving a discount in lieu of such commission or brokerage. The purpose of these provisions is to prevent the use of fictitious brokerage to conceal discriminatory pricing.

Employees should consult the Legal or Compliance Department about sales transactions that present any of the following situations:

- The seller makes a payment to the buyer or to an agent of the buyer.
- The buyer makes a payment to an employee or agent of the seller, rather than directly to the seller.
- The seller gives a discount purportedly to reflect a savings of commission or brokerage.
- A seller grants a discount only on condition that a broker or sales agent agrees to reduce its normal charges.

f) Monopolization

In those lines of business in which CEMEX has a high market share, we must ensure that we comply with the provisions of the antitrust laws that prohibit monopolization or attempted monopolization.

(i). Monopoly Power

Monopolization laws apply when a company possesses monopoly power or holds such a strong position in a market that its conduct presents a dangerous probability of success in achieving monopoly power. The presence of monopoly power is a complex issue. For the purpose of compliance, employees should consult with the Legal or Compliance Department when monopolization issues arise in markets where CEMEX might be found to hold a market share of at least 50%.

(ii). Unlawful Acquisition or Maintenance of Monopoly Power

The antitrust laws do not prohibit the mere possession of monopoly power. A violation occurs when CEMEX acts to obtain, preserve or enhance its monopoly power by some method other than legitimate competition. Legitimate competition includes selling better products, charging lower prices or delivering better service. Practices that can be found illegal include the following:

- Selling products below the cost of production (known as predatory pricing)

- Offering a bundled discount on a package of two or more products, where the seller has a monopoly position on one of the products and a competitor on the non-monopoly product cannot match the bundled price.
- Refusing to deal with a competitor, or with a customer or supplier of a competitor, where the deal would be profitable and no reason exists for the refusal other than to exclude competition.
- Demanding exclusivity from suppliers or customers so that competitors are blocked from essential inputs or channels of distribution.

Employees must consult the Legal or Compliance Department before undertaking any activity that might be characterized as one of these practices.

g) Patents

Holding a patent does not violate the antitrust laws, however several practices involving patents may lead to antitrust violations including:

- **Fraud on the patent office.** If a patent is obtained by misrepresenting or concealing information in the application to the Patent and Trademark Office, such as relevant prior art (public information that may be relevant to a patent's claim of originality), the result might be invalidation of the patent and antitrust liability.
- **Bad faith enforcement.** If a patent holder brings or threatens an infringement action without a reasonable and good faith belief that the patent is valid and that it has been infringed, the conduct could be found to be illegal monopolization.
- **Restrictive licensing practices.** Licenses can impose restrictions on the activities of licensees in limited circumstances, but some restrictions carry antitrust risks. Employees must consult the Law Department before entering any license agreement in the following situations:
 - the license controls the price that the licensee charges for products or services sold under the license;
 - CEMEX issues a license to, or takes a license from, an actual or potential competitor for any of the CEMEX's products or services; or
 - CEMEX issues a license to, or takes a license from, the holder of a patent covering technology that is an alternative to technology covered by one of CEMEX's patents.
- **Patent pools.** Any arrangement involving the joint licensing of the patents of two or more independent patent holders must be reviewed by the Law Department.

Dealing with actual or potential competitors:

To avoid improper conducts or appearances of such, you must never engage in public or private, oral or written contracts, agreements, discussions, or negotiations with actual or potential competitors, unless they have been previously advised on or permitted by the Legal Department, about the following issues:

- Pricing policies, discounts, margins, rebates, and other terms and conditions of sale;
- Pricing practices or trends of suppliers, wholesalers, distributors or customers;
- Bids or bid procedures;
- Projected profits, profit margins, market shares, or product concentration within certain markets;
- Costs and projected costs;
- Business, marketing and promotional plans;
- Customer or supplier selection, rejection or termination;
- Not to sell or buy from particular individuals or companies (boycotts);
- Credit terms;
- Freight charges or royalties;
- Allocation of sales territories, customers, or particular businesses;
- Controlling the rate of production or market supply or any products or materials essential for competition; or
- Controlling or attempting to control or delay the production or market supply of any products related to our business.

For any meeting or discussion with a competitor that does proceed, the following steps must be taken:

- Document in advance that both sides understand the business purpose of the discussion. For example, agree on an agenda or exchange emails identifying the topic of discussion.
- Restrict the discussion to the identified purpose.
- Make a record of the meeting or discussion, noting the following:
 - date;
 - time;
 - place;
 - duration;
 - the persons participating;
 - all matters discussed; and
 - all agreed follow-up actions.

Sources of Competitive Information

To compete effectively, we must gather information about our competitors' pricing and their actions in the marketplace. We may not obtain this information directly from competitors, because the exchange of sensitive information can imply an agreement. Rather, we may gather competitive information only from legitimate sources, such as:

- The business press.
- The internet.
- Customers.
- Consultants.

When customers or consultants are the source of competitive information, avoid circumstances that could suggest the use of an intermediary to communicate with competitors. In particular, do not consent to any customer or consultant sharing CEMEX's sensitive information with any competitor.

Employees must avoid using competitive information received from an unknown source. This includes documents that arrive in unmarked envelopes and information conveyed by intermediaries who do not disclose their sources.

Penalties for Violation of Antitrust laws:

CEMEX operates in different countries and is therefore exposed to different civil and/or criminal penalties. For example:

- USA:
- Company criminal penalties – Up to US \$100 million.
 - Individual criminal penalties – Up to 10 years in prison and/or fines up to US \$1 million.
 - Injunctive relief – courts can order company to sell assets or leave markets.
 - Private antitrust actions - Civil liability, Treble (x3) Damages.

European Union:

- Company penalties – up to 10% of worldwide revenue.

Latin America:

- Mexico: Company penalties – Up to US \$7.3 million (approx) or the higher of 10% of annual sales or asset value and forced sale of assets.
- Brazil: Company penalties - up to 30% of the gross pretax revenue of the last financial year.
- Colombia: Company penalties - up to US\$20 million fines.

NOTE: Antitrust enforcement can reach beyond your country's borders, and many government agencies cooperate with each other to investigate and enforce antitrust laws. You may be subject to the antitrust laws of another country if your conduct is considered as anticompetitive by such country.

Internal Sanctions

Strict compliance of this Policy is expected and required from all CEMEX employees and representatives. In addition to any applicable personal penalties as mentioned above, any violation to this Policy may result in sanctions depending on the graveness of such breach, such as administrative and/or disciplinary measures, including, but not limited to, employment suspension or termination, as well as any other sanctions set forth and applicable pursuant to competition laws, the CEMEX Code of Ethics and other internal regulations.

Recommendations

Documents and Record-Keeping

- Documents should be retained only if there is a clear business or legal need.
- Handwritten notes, emails, drafts of presentations, reports, voicemail and instant messages may be considered evidence documents.
- Avoid using sensitive antitrust terms such as: "dominate", "monopoly", "closest competitors", "barrier to entry", etc.
- Press releases, and any investor and other strategic presentations must be carefully reviewed by the Legal Department.

Contact your local Legal or Compliance Department at CEMEX at any time if:

- You have questions about the CEMEX Global Antitrust Policy;
- You have questions about your local antitrust laws;
- You need guidance in regard to a specific business situation that might raise antitrust concerns.

CONCLUSION

Each employee must remember that the ultimate responsibility for adhering to this Policy and following antitrust laws rests with him or her. Careful language will not avoid an antitrust violation when the conduct is, in fact, illegal.

Think before you speak or write. Use your best judgment and consult with the Corporate Legal Department when in doubt.