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## competing fairly

The UK has some of the toughest competition laws in the world. This briefing highlights the key legal issues your business must consider when it is dealing with its competitors.



## What is competition law?

Competition law is designed to ensure that companies compete fairly with each other.

Failure to comply with competition law can have serious implications for your business, including large fines.

Certain serious breaches of competition law may also expose an individual to the risk of criminal prosecution.

Businesses can be exposed to claims from competitors and that may exceed any fines imposed on them.

## Cartels

A "cartel" describes any organisation or arrangement between at least two competitors that is designed to reduce competition between them and so increase prices or profitability beyond the level that could be achieved competitively. All forms of cartel activity are strictly prohibited.

Examples of cartels are:

Price fixing - any understanding or agreement about price levels or increases can constitute price fixing. Even a statement to a competitor like "we intend to increase prices next year", can constitute unlawful price fixing. Unlawful price fixing includes:

- setting minimum or target prices for particular customers or sales in general.
- co-ordination of the timing of price increases.
- agreeing any aspects of trading conditions such as discounts, margins, rebates, credit terms, advance payments, minimum prices and list prices.

Bid rigging - this is when companies agree the outcome of a tender or pitch process amongst themselves, either by:

- deciding in advance which company will bid;
- who will bid the best price; or
- what the tender process should be.

### More information

If you have any queries about the content of this checklist, please contact Amanda Doyle on [amanda@doylelaw.co.uk](mailto:amanda@doylelaw.co.uk).

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Market sharing - this may involve an agreement to allocate particular customers or sales territories to individual cartel members.

Information exchange - your business must not agree to share confidential or commercially sensitive information with competitors, for example:

- prices;
- margins;
- customers; or
- sales information

**Limiting output or sales** - sales or production quotas are often used to control the market position of cartel participants and maintain artificially high prices.

## Other forms of co-operation

Several other forms of co-operation with competitors may breach competition law. To be safe, always take legal advice before doing any of the following:

- joint purchasing agreements.
- research and development agreements.
- specialisation agreements (where competitors agree to specialise in the production of certain types of goods).
- standardisation agreements (for example, where companies agree basic technical standards for products).
- joint advertising.
- joint sales.

Each of these can be prohibited if the objective or effect is to reduce competition. They may be permissible, however, if, for example, there are customer benefits that outweigh any anti-competitive effect.

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