Good Conduct Code
Compliance
with competition law
Compagnie Plastic Omnium

PLASTIC OMNIUM


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“Compliance with competition law: everybody’s business”

Founded in 1947, Plastic Omnium bases its success on Independance, Investment, Innovation, Internationalisation and Integration: the five "I"s.

In order to mark the attachment of Compagnie Plastic Omnium and all of its subsidiaries throughout the world to the rules of Competition Law, I wanted a specific Code to be drawn up on the conduct and competition rules that our subsidiaries and our staff must absolutely apply. This Code fits in with Plastic Omnium's "Code of Conduct" and extends the section on "Conduct in competition matters" in that code.

I would like to insist on the fact that the risks that Plastic Omnium could face in the event of conduct contrary to the rules recalled in this Code are very great, and bear no relation to the significance of any given activity. An activity which generates the lowest volume of sales could expose the Group to disproportionate risks.

Compliance with this Code is therefore fundamental for Plastic Omnium and its employees throughout the world and forms part of compliance with "Business Ethics" to which I, and all of the Management Committee, are very firmly attached. Non-compliance with these rules would be a serious breach.

I, the Group's senior executives, Members of the Management Committee, Division Executives, Country Managers, Site Managers, Sales Managers and Buyers, etc., have the responsibility of ensuring that this Code is properly applied, and that each member of their staff complies with it.

I am counting on each and every one of you. The success of the global and harmonious development of our company is based on adhesion to all of these values.

With my thanks in advance for your renewed help.

Laurent Burelle
Chairman and Chief Executive Officer
Compagnie Plastic Omnium

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What is the purpose of this Code?

This Code of Conduct is intended to help you to understand and apply the rules of competition law in the exercise of your daily activities within the Plastic Omnium group (Compagnie Plastic Omnium and all of its subsidiaries). It should allow you to identify:

- what is prohibited;
- what will require the prior consultation of the Legal Department;
- what is permitted.

It therefore presents the behaviour that Plastic Omnium group staff members must imperatively adopt, and failure to comply with the rules contained in this Code may lead to disciplinary sanctions and can go as far as dismissal for serious breach.

If you have any questions, you must therefore consult the Legal Department without waiting.

How does this Code work?

This Code works on a system of pictograms:

Red light: this refers to conduct or agreements which are generally deemed to be illegal in most countries and are therefore **prohibited**. They must **never** be carried out by anybody in the Group.

Amber light: refers to potential risk areas where you must **request advice** from the Legal Department.

Green light: refers to commercial practices which are **permitted**.

"Bright idea": conduct to be adopted.

Draws your attention to an important point.

Identifies those situations where you must request the prior opinion of the Legal Department.

Alerts you to the incurred risks.

Memento:
Summary of the sections on “How to conduct yourself with respect to your competitors?” and “How to conduct yourself with respect to your customers and suppliers?”

1.
Why does competition law deserve particular attention?

"Competition law has to be the business of each one of you"

1.1 What is the purpose of competition law?

"The scale of the risks means that everyone has to be aware of the rules on the play of competition."

The purpose of competition law is to lay down rules for the economic interplay among undertakings on the market.

Modern economic systems are based on the principle of free competition, considered to be the most efficient manner of providing customers with the best value for money.

Free competition, by inciting undertakings to provide the most attractive offers in order to win over and keep their customers, also stimulates innovation and technological progress.

However, it may happen that a player which has a strong position on a market, abuses this position to try to exclude its rivals from that market, impose prices on its resellers, or boycott certain customers.

Undertakings may also be tempted to set themselves apart from the rules on economic interplay by fixing prices or the terms and conditions of sale among one another, or sharing markets among themselves.

Countries with a market economy have therefore laid down rules which are intended to protect competition. They have also put in place, alongside the courts of private law (which may award damages) and the courts of criminal law (where natural persons may be convicted), competition authorities responsible for ensuring compliance with these rules and imposing sanctions on undertakings which fail to follow them.

The scale of the risks arising with the infringement of competition rules, whether for Plastic Omnium, for its shareholders or for its employees, require everyone to be aware of the rules of the game of competition.

Competition law therefore has to be the business of each one of you.

1.2 What are the basic rules of competition law?

"Each undertaking must act in a manner which is fully independent of its competitors"

1.2.1. Prohibition of anticompetitive agreements

Principle: each undertaking must determine its policy on the market and act in a manner which is fully independent of its competitors.

Agreements are prohibited when they have as their object or effect to distort or restrict competition

The most serious case of anticompetitive agreements are **cartels**, where competitors agree on the behaviour they will adopt on the market.

Typically, members of a cartel will agree to **fix** prices and other transaction conditions (rebates etc.) or **share** markets, in particular via calls for tenders, and customers amongst themselves.

This prohibition also applies to **vertical relationships** between an undertaking and its suppliers, distributors, and customers.

WARNING, there does not have to be a formal contract. Informal agreements and discussions between undertakings (oral agreement, telephone conversation, attending a meeting or a meal, etc.) are also concerned.

1.2.2. Prohibition of abuses of domination

Principle: an undertaking or a group of undertakings in a position of strength on a given market or with respect to a customer or supplier, must take certain precautions.

A particular responsibility lies with an undertaking in a position of strength not to undermine competition on the market. It can therefore be prohibited from certain practices that would normally be permissible for a non-dominant undertaking.

Competition law prohibits certain abusive types of behaviour where:

- An undertaking has a **dominant position** on a market.

→ The leader may find itself in this situation as soon as it exceeds a 25% market share (depending on the position of the other competitors and other indications such as brand recognition, technical capacities, financial means, etc.) of the market.

- Several competing undertakings collectively hold a dominant position on a market.

- An undertaking has a customer or supplier which is in a state of **economic dependency with respect to it**.

1.2 What are the basic rules of competition law?

→Dependent customers or suppliers are those which do not have any alternative solutions if their relations are terminated (due in particular to the level of the supplier's brand recognition, the size of its market share and its share in the reseller's sales, the absence of equivalent goods, etc.).

The market is not to be confused with the sector, and it may be a complex matter to determine its boundaries. If there is the slightest doubt in determining the possibility of a dominant position on this market, and assessing the possible economic dependency, the Legal Department must be consulted.

If you have any doubts, you must therefore consult the Legal Department.

The most common forms of **abusive behaviour** are **unjustified refusals to sell, loyalty rebates, discriminatory conditions, certain contract clauses** (too broad exclusivity, automatic alignment with the competition, etc.), **abrupt termination** of relations or **tied sales**.

1.2.3. Other behaviour prohibited in certain countries, which can give rise to compensation

In certain countries, prohibited behaviour will give rise to a right to damages for undertakings which suffer from them, in proceedings before the ordinary courts. They are:

- **Practices which are prohibited in themselves**

Principle: certain countries in which Plastic Omnium is present prohibit conduct which is deemed to be in itself illicit in commercial relations.

E.g.: non-compliance with rules on invoicing (France), resale at a loss (Germany, Belgium, France, Spain, Italy, Portugal, Switzerland, a large majority of States of the United States of America etc.), or the abrupt termination of established commercial relations without notice, or even the mere threat of such termination (France).

■ Unfair conduct

Principle: most countries in which Plastic Omnium is present prohibit competitors from using unfair methods to win over and retain customers.

Certain forms of behaviour are to be avoided at all costs: sending letters or e-mails to customers containing derogatory information about a competitor or its goods, imitating a competitor's goods or its advertising and thereby allowing confusion or a connection to be made with the competing product in order to benefit indirectly from its investments (parasitic trade practices or "passing-off"), systematically poaching a competitor's staff, disclosing the business secrets of a competitor, using a competitor's reputation in order to profit from its efforts and its know-how, etc.

1.3 What are the risks in the event of infringement?

"For a group with a turnover of 3 billion euros, in theory the fine could attain 300 million euros"

1.3.1. What are the risks in the event of infringement?

■ Dissuasive sanctions for the infringing undertakings

Principle: The infringement of competition rules can have many serious consequences for an undertaking.

Fines:
The authorities responsible for sanctioning agreements and abuses of a dominant position may impose **extremely heavy fines** on an undertaking which is guilty of anticompetitive practices. In competition law, fines have two aims: dissuade the undertaking and repair the damage caused to the economy.

Fines are set by taking into account, in particular, the seriousness and duration of the practice, the scale of damage to the economy and the specific circumstances of each undertaking (powerful group, repeat infringement, etc.).

The current trend, throughout the world, is a considerable increase in fines imposed by these competition authorities. Fines for several hundreds of millions of euros or dollars have become common.

The fine can attain 10% of the worldwide turnover of the group to which the infringing undertaking belongs. For a group with a turnover of 3 billion euros, in theory the fine could come to 300 million euros.

A press release and summary of the decision is also put online on the authority's website on the date of the decision.

WARNING, a crisis context, whether in the sector or in the general economy, cannot justify the implementation of anticompetitive practices. A difficult financial situation in a crisis period will not exonerate an undertaking.

Other risks:
In the event of anticompetitive practices, fines are not the only risks incurred by undertakings. They may also be subject to:

- Injunctions by the authorities requiring the undertakings to change strategy: Clauses to be redrafted or deleted from agreements held null and void, obligation to deal with certain partners under objective, transparent and non-discriminatory conditions, abandonment of exclusivity, etc.

1.3 What are the risks in the event of infringement?

The infringing undertaking may also be induced to make **commitments** before the competition authorities, and be obliged to report on their proper implementation, which will be the subject of regular verifications.

- **The publication of the decision in the press at the undertakings' expense.**

- **Lawsuits seeking damages, brought by the victims of the practices (disgruntled suppliers and customers, ousted competitors, etc.).**

The damages granted by the courts of private law will, including in France, be in addition to the fines imposed by the authorities, which will encourage such lawsuits.

In the United States, where there are class actions and punitive treble damages (three times the amount of the loss), these private lawsuits represent more than of 90% of antitrust litigation.

In Germany, in particular, the private law court is furthermore bound by the decisions of all competition authorities in the European Union.

As for other prohibited behaviour (unfair behaviour and practices which are prohibited in themselves), the offending undertakings also run the risk of damages, injunctions and the publication of the award made against them.

WARNING, in France, for practices which are prohibited in themselves (termed "restrictive" practices), the private law courts can not only award damages to the victim, but also impose a civil law fine of up to two million euros.

All of these procedures generate substantial costs for the undertaking having to defend itself.

The detection of cartels is facilitated by leniency policies

Leniency policies are used as a tool to incite members of an agreement to denounce the existence of this agreement and provide evidence to the competition authority enabling it to prove the reality of the agreement and identify the participants, in return from **complete immunity** from fines or a **substantial reduction.**

In many jurisdictions (dozens of countries: Canada, the United States, China, the European Union, France, Spain, the United Kingdom, Germany, etc.), there are "leniency" policies intended to facilitate the detection of cartels.

Leniency policies have undergone exponential development over the last few year and now account for a large proportion of litigation concerning cartels.

1.3 What are the risks in the event of infringement?

■ For members of staff

Principle: The undertaking is not the only one to run risks if anticompetitive practices are implemented. Employees who took part in implementing these practices are also at risk of serious consequences.

They may be subject to:

■ **disciplinary sanctions:**

Employees are also subject to sanctions, **going as far as dismissal for serious breach** in the event of taking part in an anticompetitive agreement with a competitor.

■ **criminal convictions:**

Natural persons who took part in implementing an anticompetitive practice are also subject to penalties under the criminal law in many countries (the United States, France, Germany, the United Kingdom, etc.).

In France, employees who took an active part in conceiving or implementing anticompetitive practices are thus punishable by **four years imprisonment** and **a fine of 75,000 euros**.

In the United Kingdom, the senior executive of an undertaking which has taken part in an anticompetitive practice may be disqualified from holding any executive position for a period of up to 15 years.

1.3.2. The specific risks for public procurement contracts: the French and German examples

Other than those risks which are specific to competition law, you must pay particular attention to the risk of criminal law sanctions in the event of infringement of rules which are intended to guarantee free access to and equality of candidates for public procurement contracts and the outsourcing of public services.

Thus, in France:

- Promising and/or giving bonuses to a civil servant (e.g. an official of the county department for infrastructure & facilities - DDE) or an elected official in order to obtain the administrative authorities' assessment of a contract, or the list of undertakings which have requested candidacy forms, or to win the contract (**complicity in the offence of favouritism**):

- Risks for natural persons: **Two years imprisonment and a fine of 30,000 euros** as well as complementary penalties (including the suspension of civil, civic and family rights, and prohibition from exercising the professional activity in which the offence was committed);

- Risks for the legal entity: **a fine of 150,000 euros.**

1.3 What are the risks in the event of infringement?

■ Being awarded, **knowingly**, a contract in breach of the principle of equality among candidates, for example by obtaining a contract by mutual agreement which should have been the subject of a call for tenders, is penalised (**receiving from the offence of favouritism**):

Risk for the legal entity: a fine of 3.75 million euros and complementary penalties (exclusion from public procurement contracts, definitively or for a period of up to 5 years; closure, definitively or for a period of up to 5 years, of establishments used to commit the offences, etc.).

■ Proposing a sum of money or any other consideration (rebates, supply of goods at preferential prices, gifts, free services, promise to hire a friend of the public official, etc.) to a public purchasing authority in order to win a contract, is penalised (**bribery**):

- Risk for the manager who breached the rules: **10 years imprisonment and a fine of 150,000 euros**, and complementary penalties (suspension of civil, civic and family rights, etc.);

- Risk for the legal entity: **a fine of 750,000 euros** and complementary penalties.

Thus, in Germany, other than the risk for the enterprise and for natural persons (**up to 5 years imprisonment** or a fine - **Article 298 of the German Penal Code**) in the event of concerted bidding in a call for tenders:

- German law penalises the proposing, promising or giving a civil servant or another public official any consideration to reward the adoption of conduct which is contrary to that person's obligations as a public official (e.g. awarding a contract to a specific contractor) - (**Art. 334 of the German Penal Code - bribery**).

- German law penalises the proposing, promising or giving a civil servant or another public official any advantage whatsoever (even if benefiting a third party) for any act in the exercise of that official's functions (even if that act is not contrary to that person's obligations as a public official). It is therefore prohibited to grant advantages regularly to a public official, even without asking him to carry out any specific act, for the purpose of "keeping him friendly" - (**Art. 333 of the German Penal Code - attributing advantages**).

- Risk for natural persons: up to **5 years imprisonment** in the first case, 3 years in the second case, or a fine.

- Risk for the legal entity: a fine of up to **one million euros** and the possibility of being excluded from competitive tender processes.

2.
What conduct should you adopt?

"Each person must ensure strict compliance with the competition rules set out in this Code"

Each person must ensure strict compliance with the competition rules set out in this Code.

Even if the turnover from your activity is not the most significant within the Plastic Omnium group, this doesn't mean that your conduct, if out of phase with the rules set out in the Code, couldn't give rise to a very substantial risk for the Group.

Indeed, infringements of competition law, even if highly localised in geographical or material terms (in a small subsidiary or for a specific call for tenders), can have very serious consequences for the whole of the Group.

A subsidiary of the Plastic Omnium group can therefore, on its own, give rise to a financial sanction which has no bearing on the scale of its activity.

In addition, you must not lose sight of the fact that belonging to an international and widely renowned group such as the Plastic Omnium group may be considered by the authorities, in certain cases, as being an aggravating circumstance. Indeed, if anticompetitive practices are put into effect by such a group, this may have the effect of inducing similar behaviour among more modestly-sized undertakings while making it appear more ordinary.

2.1 How to conduct yourself with respect to your competitors?

*"You must **never** discuss Plastic Omnium's pricing policies or commercial strategy with a competitor."*

2.1.1. Practices which are always prohibited

You must **never** enter into agreements on or discuss the following subjects with competitors:

- **Fixing prices and other conditions of sale**

Any direct or indirect coordination on prices (price lists, minimum/maximum price), on elements comprising the price (rebates, margins, promotions, etc.) or on any other condition of sales (warranty, payment terms, etc.) is **always prohibited** and **severely punished** by the authorities.

You must never discuss Plastic Omnium's pricing or commercial policy with a competitor.

E.g. At a trade fair, you have lunch with several representatives of competing undertakings. One of the representatives refers to the very large rebates applied to buyers in the sector, and evokes the interest in applying commonly-agreed rebates.

How should you react?

In order to distance yourself from your competitors, you should formally express your opposition to discussing such subjects, immediately leave the lunch or the meeting and inform the Legal Department of this incident.

■ Sharing out markets, contracts and customers

Any agreement or discussion with competitors with view to sharing out public procurement contracts or private calls for tender, geographical markets or customers, equivalent to a **"non-aggression pact"**, is **formally** prohibited.

Typically, a system for "dividing up" markets or a bid rotation system is prohibited.

E.g. a competitor calls you and offers not to prospect your customers, if you also undertake not to prospect his.

How should you react?

You must formally express your disapproval, end the conversation and inform the Legal Department.

■ Boycotts

Any practice among competitors in order to agree to refuse either to supply a given customer, or to obtain supplies from a given supplier, is **strictly prohibited**. This is one of the most serious infringements of competition law.

2.1 How to conduct yourself with respect to your competitors?

E.g. at a meeting within a trade association which brings together the majority of players on the market, one of the participants proposes excluding certain customers deemed undesirable and to blacklist them, you should protest, leave the meeting, **demand that this be noted on the minutes of the meeting**, and inform the Legal Department.

■ **Bid rigging**

Any agreement or discussion by which the bidders to a call for tenders decide to act in concert:

- to tender an unrealistic bid ("courtesy bidding"),

- to exchange information on their respective bids before tendering them (existence of competitors and their names, their interest or lack of interest in the contract, availability in terms of personnel and equipment, envisaged prices, etc.),

- to exchange information which has been collected at the time of performing a contract which is identical to the one concerned by the call for tenders (recurrent contracts),

- to agree on their respective bids (amount or quality) in order to determine which undertaking will win the contract ("cover bidding"),

- to agree on bid rotation so that competing undertakings win contracts in turns,

- to agree among competitors which undertaking(s) will not bid or will withdraw their bids, so that the designated undertaking will have its bid accepted to win the contract,

is **STRICTLY PROHIBITED**.

E.g. at the time of collecting the files and specifications for a call for tenders, a candidate that you know offers to buy you a drink.

What should you do?

In general, you must **avoid** all contact with competitors present on the day the tender files are to be collected, and afterwards, which could lead to discussion of the contract in question and even your respective bids.

Collusive bidding is illegal in OECD countries and, in most of these countries, is a criminal offence.

2.1.2. Cooperation which is authorised under certain conditions

The conclusion of the following agreements with Plastic Omnium's competitors may be problematic with respect to competition law, but may be authorised under certain conditions:

- Production agreements (competitors agree to produce certain goods jointly),
- Distribution agreements (agreements by which competitors organise the distribution of goods or services),
- Specialisation agreements (one undertaking grants a competitor a commitment that it will no longer produce certain goods, and to purchase them from that competitor, which for its part commits itself to manufacturing these goods and supplying them to it),

2.1 How to conduct yourself with respect to your competitors?

- R&D agreements (joint research and development of goods or processes and/or the joint exploitation of the results),
- Licensing agreements (in the context of which one undertaking authorises a competitor to exploit a licensed right for the production of goods or services).

You must **not** commit yourself to negotiate or conclude an agreement of this type without first consulting the Legal Department.

2.1.3. The prohibition of exchanges of sensitive information

Exchanges of information among competitors are **always** prohibited where they concern commercially sensitive information, such as:

- The current prices or items determining the price (remuneration levels, costs, rebate brackets, etc.),
- Sales figures and results (margins, profits, etc.),
- Sales conditions,
- Future goods and services,
- Commercial strategy.

Never discuss Plastic Omnium's pricing, commercial or industrial policy with your competitors or in the presence of your competitors.

On the other hand, you may **lawfully** obtain information about your competitors, through your distributors, your customers, your sales force, publicly available sources or from firms specialising in market surveys.

You should **always** be able to identify **the source** of such information.

2.1.4. Consortia and subcontracting agreements among undertakings in the context of calls for tenders

Principle: Independent and competing undertakings may form a consortium or enter into subcontracting agreements in order to bid in a call for tenders, if they comply with certain conditions.

If you form a consortium with Plastic Omnium's competitors in order to bid for a call for tenders, you must **always** ensure that:

- This consortium is justified by technical and economic necessities;

E.g. acquiring skills that you do not have, be able to bid on the basis of the most competitive offer, share the workload in order to gain flexibility or carry out works that you would have difficulty carrying out alone considering their scale, making economies of scale, etc.

- This consortium does not cause an artificial reduction in the number of bidding undertakings and does not dissimulate an anticompetitive price agreement or market-sharing agreement.

2.1 How to conduct yourself with respect to your competitors?

As for subcontracting agreements, you must not only verify that they are justified on technical and economic grounds, but also inform the contracting authority about them.

Procedure to be followed for the forming of consortia or conclusion of subcontracting agreements:

- **ask** the competitor to state its interest in forming the consortium or subcontracting agreement, without raising any other subjects;
- **ensure** that the consortium does not lead to a grouping of the main players on the market (the person calling for tenders must be able to seek credible alternative offers);
- **only discuss**, if the competitor is interested in forming a consortium or concluding a subcontracting agreement, the technical and human resources required for the performance of the contract, performance bonds, and guarantees for the acceptance of the works;
- **wait** for the consortium to be formed or subcontracting agreement to be concluded, before discussing the items which will form the bid;
- **keep** a written trace of all exchanges made with the competitors for the creation of the consortium or the subcontracting agreement;
- **state** the technical and economic justification in the consortium agreement (recitals/presentation of reasons at the beginning of the agreement) to attest to the legitimacy of the grouping.

Procedure to be respected in the event of failure of a planned consortium or subcontracting agreement, and bidding individually or as part of a different consortium:

- **Provide**, with the bid, a list of undertakings with whom a consortium or subcontracting agreement was considered, and with whom you discussed elements of the bid.

Memento

You must always determine your commercial policy in the market and act in a manner that is wholly independent and autonomous, including with respect to your partners, maintaining a degree of uncertainty as to the conduct and strategy of your competitors.

You are prohibited from:

- exchanging sensitive commercial information with your competitors (prices, rebates, commercial strategy, future goods and services, your sales figures),
- jointly fixing prices and other conditions of sale,
- organising the sharing of markets and customers,
- excluding certain operators from the market,
- conferring with your competitors before submitting your bids.

You must obtain the opinion of the Legal Department in order to:

- conclude production agreements, distribution agreements, specialisation agreements, R&D agreements, or licensing agreements,
- form a consortium or enter into a subcontracting agreement with competitors with a view to submitting a bid in a call for tenders.

You are permitted to:

- obtain information about your competitors in a lawful manner (though the intermediary of your distributors, customers, sales force, publicly-available sources or firms specialising in market surveys), while identifying the source of that information.

If you have any doubts, you must consult the Legal Department.

2.2 How to conduct yourself with respect to other companies in the group?

"The companies of the Group may consult with each other before submitting bids to decide which company will submit the bid and/or to prepare such bid, provided only one bid is submitted."

Principle: the provisions that prohibit anticompetitive arrangements do not apply to intra-group agreements if the subsidiaries are not commercially and financially independent.

However, companies in the same group may compete with each other and submit separate and independent bids in response to a call for bids.

If you decide to respond to the same call for bids, whether jointly with or separately from other Group companies, you must comply with certain rules:

- You may submit a bid in response to a call for bids separately from other Group companies provided the separate bids are truly **independent** from each other. You must **never** prepare the bids jointly, or even consult with each other before the bids are submitted, so as to avoid deceiving the party responsible for awarding the contract by submitting bids that are not truly independent.

- You may consult other Group companies before submitting bids to decide which company will submit the bid and/or to prepare such bid, provided only one bid is submitted.

WARNING: in the event of non-compliance with these rules, the consultation between Group companies may be considered an anticompetitive arrangement, for which the authorities may impose **harsh penalties.**

2.3 How to conduct yourself with respect to your customers and suppliers?

*"Any agreement by which an undertaking directly or indirectly imposes a resale price or minimum commercial margin on its customer, is **formally prohibited**."*

2.3.1. Basic rules

The agreements and practices put into effect in relations with customers and suppliers are termed **vertical agreements/vertical practices** since the parties are at different levels in the production or distribution chain.

In these vertical relations, you must ensure that certain basic rules are observed.

- **Sales territories**

Any agreement, in Europe and in many countries, whereby one undertaking restricts the territory in which purchased goods may be resold, is in principle prohibited.

Nevertheless, in Europe, such a restriction may be authorised if the undertaking's market share is less than 30%.

WARNING, the market in which this threshold is calculated may be defined very narrowly.

If you have any doubts, you must therefore consult the Legal Department.

2.3 How to conduct yourself with respect to your customers and suppliers?

■ Prohibition on setting a minimum resale price

Any agreement by which an undertaking directly or indirectly imposes a **minimum** resale price or commercial margin on its customer is **formally prohibited**.

On the other hand, it is possible to **recommend** prices to distributor customers, provided that no advantage is granted to resellers who respect the recommended price (e.g. rebates conditional upon price levels).

You **must** therefore:

- **Always** inform the reseller that he is **free** to respect the recommended prices or not.

- Never set up a system to monitor respect for recommended prices by the reseller, together with measures of retorsion (threat of suspending deliveries, etc.).

- If you wish to recommend prices to your distributor customers, you **must** therefore consult the Legal Department.

■ Conduct to be adopted in the event of change of strategy with a supplier/customer or change in supplier/customer

Principle: Any buyer or seller may freely choose his supplier/customer and break off relations with him.

You must however observe certain precautions if you are in a position of strength and if you **decide** to change strategy with a supplier or a customer, or **change** supplier or customer.

Thus, in France it is expressly prohibited to:

- **Impose** obligations on a commercial partner which create a significant imbalance in the parties' rights and duties,

- **Threaten** to break off commercial relations with a supplier or customer in order to obtain unreasonable conditions concerning prices, payment deadlines, methods of sale or services which do not fall within the scope of purchase and sale obligations,

- **Break off** abruptly, even in part, any established commercial relations without sufficient written notice.

2.3 How to conduct yourself with respect to your customers and suppliers?

You **must** therefore:

- **Clearly state** your purchasing/sale conditions;
- **Not use** your bargaining strength for purchasing/sales with respect to your suppliers and customers to obtain excessive advantages and/or impose exorbitant purchasing conditions on them if they have no other alternative but to address themselves to you;
- **Be prudent** on terminating relations with a regular supplier/customer, including by providing for a suitable notice period considering the duration of your relations and the significance of your purchasing in its sales turnover;

- **Always consult** the Legal Department before breaking off commercial relations with a regular supplier or substantially reducing orders from a regular supplier.
- **Exclusivity or virtual exclusivity**

Exclusive or virtually exclusive agreements, by which:

- a customer undertakes to obtain supplies only from a supplier (exclusive supplier agreement) or for more than 80% of its requirements and/or,
- the supplier undertakes to distribute its goods only through a single reseller (exclusive distribution agreement) or to sell to just one customer (exclusive supply agreement)

can have restrictive effects on competition.

In EC law, they are **authorised provided however** that they meet certain conditions. you **must:**

- **Ensure** that you, or your customer, do not have a market share exceeding 30%. **Warning,** the market in which this threshold is calculated may be defined very narrowly;

- **Verify** that the exclusivity is not for an excessive duration and is not for more than 5 years;

- **Always consult** the Legal Department before entering into exclusive agreements.

Outside those countries which are governed by EC Law, you must:

- **Always consult** the Legal Department before entering into exclusive agreements.

2.3.2. The case of public customers

You **must** not apply practices which might orient the choice of public customers, infringing the principle of equality of candidates:

- **In general, in your relations with public customers**, you **must always** ensure compliance with the following rules:

- You may only invite your customers to events (to restaurants, sports events, golfing days etc.) and offer them gifts in order to maintain good relations with them, if these invitations/gifts are **not covert** and if they are **reasonable.** They must be made independently of any contract and must **never,** in size, be such as to lead the buyer to award a contract to you.

2.3 How to conduct yourself with respect to your customers and suppliers?

- Inform yourselves about the compliance of your practices in this matter with the Group's policy (see the *Compagnie Plastic Omnium Code of Conduct,* chapter 6, p. 16)

■ Before a call for tenders, at the time the specifications are drafted:

You must not incite the public customer to introduce technical characteristics in the specifications which correspond precisely to those that the Group is offering for the manufacture of its goods, with the aim of excluding certain competitors from the contract.

■ During the tender procedure:

You must **never** benefit from **inside information** from the public customer about the contract itself (e.g., its amount) or about the bids of other competitors (for tender processes which have several phases).

■ After the opening of bids:

You must not be unduly favoured by the public customer, including after the opening of the bids.

Therefore the initially-defined contract must not be amended after the opening of the bids, in breach of the specifications. Similarly, negotiations with certain candidates with a view to amending the offers after the bids are opened have to concern all of the candidates, so as not to give an advantage to certain candidates compared to others. And you must have no contact with the other candidates during the negotiations.

2.3.3. The case of customers that are also competitors

It can happen that some of your customers and/or suppliers are also your competitors, including in one and the same call for tenders.

For example, during a competitive tender process, Plastic Omnium may be competing against waste collectors, who are also its customers and order bins and containers from it.

In relations with your competitors that are also customers, you must observe certain rules:

- Supply all competitors/customers who so request under non-discriminatory conditions, equivalent to those applied for your other customers who place comparable orders.

- Apply objective, transparent and non-discriminatory pricing, accessible to your competitors/customers.

- Exclude any contact with your competitors concerning your respective resellers and the prices or other conditions applied to these resellers.

- Exclude any contact with your competitors for the drafting of "blacklists" eliminating manufacturers or resellers.

2.3 How to conduct yourself with respect to your customers and suppliers?

2.3.4. Cases where the Group is in a "position of strength"

As stated above, undertakings have a particular responsibility if they are in a position of strength on a given market ("dominant position") or with respect to one of their suppliers/customers ("economic dependency"). In a position of strength, practices which would otherwise be considered harmless can become abusive, if they have the effect of evicting an undertaking from the market.

In such a case, the following practices can constitute an abuse of domination.

■ Refusal to sell

If you are in a position of strength, it is **prohibited** to refuse to sell goods or services without objective reasons.

If you decide to refuse to supply goods or services to an undertaking which so requests, you **must:**

- **Justify** the refusal with **objective** and **measurable** reasons,

- If **you have** any doubts, consult the Legal Department.

■ Discriminating between customers

If you are in a position of strength, it is **prohibited** to treat customers differently if they are in the same situation: if your customers provide you with the same services (quantity and regularity of orders, etc.), you **must** have them benefit from comparable prices, lead times and payment terms.

On the other hand, it is possible to apply different conditions, including prices, to your customers even if you are in a position of strength, if you can justify this with **objective reasons**: the customer benefiting from advantageous conditions is providing **real consideration**, meaning something in return that is **objective and measurable**.

You **must** therefore:

- **Enumerate** in your general terms and conditions of sale those conditions which are to be met in order to benefit from price reductions, for each category of clientele or distinct market.

- If you have any doubts, consult the Legal Department, particularly in order to examine the objective reasons for certain forms of differential treatment.

■ Tied sales

Tied sales, whether these involve:

- the sale of one product or service which is tied to another (two goods or services are tied and sold together, for example a car with its equipment),

2.3 How to conduct yourself with respect to your customers and suppliers?

- grouped sales (two goods or services, which may be purchased individually, are sold at a lower price than the price of the two goods purchased separately), or

- tie-ins (to purchase one sort of goods, the customer also has to purchase another one),

may be **prohibited** if applied by an undertaking in a position of strength.

By making the sale of one product, for which it has a position of strength, conditional upon the purchase of another product, these sales techniques can have the object and/or effect of limiting access to the market, or evicting current competitors, or undermining their development.

More generally, an undertaking in a position of strength on a market must pay particular attention when it acts on related markets.

It is therefore **prohibited** for it to use its dominant position to hinder competition on a related market, for example by tying the sale of a product that only it can offer with a product that other operators can offer.

You must therefore be careful if the Group is in a position of strength on a market and acts on a related market, which could for example allow it to offer an all-inclusive price to local authorities which other competitors could not offer.

In the event that tied sales are made on a market in which Plastic Omnium has a position of strength or on a related market, you **must** therefore:

- **Verify** that the tied sale is justified on objective grounds and, in particular, by efficiency gains;

- **Always consult** the Legal Department before applying tied sales.

■ Loyalty rebates

Where rebates are intended to prevent customers from obtaining supplies from competitors, they may be **prohibited** if granted by an undertaking in a dominant position.

The loyalty effect can arise if the rebate level is progressive depending on the volume of sales made with the supplier, or where the rebate system is conditional on the customer obtaining supplies exclusively from the supplier.

E.g. Michelin was fined by the European Commission in 2001 for having applied a rebate system where the level rose on the basis of sales made with it, which had the effect of keeping distributors highly dependent on it in the market for replacement tyres, and preventing them from freely choosing their suppliers.

2.3 How to conduct yourself with respect to your customers and suppliers?

In the event that loyalty rebates are granted on a market where Plastic Omnium is in a dominant position, you **must:**

- **Verify** that the rebates are justified by real consideration (e.g. the supplier passing on cost savings connected with the form of the customer's demand);

- **Always consult** the Legal Department before applying such rebates.

■ Unfair contract terms

Especially where Plastic Omnium is in a position of strength, you must pay particular attention for the negotiation and conclusion of contracts tying you to your customers and suppliers.

Certain clauses, because they have the effect of excluding competitors from the market and/or because they abusively restrict the commercial freedom of suppliers or customers, must **always** be the subject of a prior analysis by the Legal Department.

This is particularly the case for the following clauses:

- Exclusivity clause,

- Clause requiring the contracting party to state, on the renewal of the contract, the conditions offered by the competition and give preference under equal conditions,

- Non-competition clauses...

Memento

It is always prohibited to:

- **limit** the territory in which the purchased goods may be resold,
- **lay down** compulsory resale prices,

- **break off** an established commercial relationship without sufficient written notice,
- **incite** the public customer to introduce the technical specifications of our products into the contract specifications, with the aim of excluding a competitor.

If you are in a position of strength, you are also prohibited from **imposing** discriminatory conditions and **refusing** to sell goods or services without objective grounds.

You must obtain the Legal Department's opinion for:

- **recommending** resale prices,
- **applying** different conditions to customers or suppliers, in order to determine the objective reasons,

- **concluding** exclusive agreements,
- **making** tied sales,
- **granting** loyalty rebates.

2.4 How to conduct yourself within trade associations?

"It is normal for an undertaking to participate in trade associations, but that involves risks. There are therefore rules to be observed."

2.4.1. Basic rules to be observed when you attend meeting in trade associations

Principe: It is normal for an undertaking to participate in trade associations. However, such participation involves risks due to the presence of competitors at meetings.

You must **always** observe certain basic rules:

- **Verify** that a precise agenda is distributed in advance, and if not do not attend the meeting,
- **Formalise**, here necessary, the process of designating the people who will attend (principal/substitute representatives) at these meetings depending on their purpose,
- **Verify** that minutes are kept of meetings, and if not demand to have minutes drafted and leave the meeting in the event of refusal,
- **Draft** a report of meetings for your hierarchical superior,
- **Do not meet your competitors informally** before such meetings or on the sidelines,
- **Do not communicate** sensitive commercial information to a trade association except on an express request, and only if this communication is made in compliance with a procedure guaranteeing the confidentiality of the information.

If you have any doubts, you must consult the Legal Department.

2.4.2. The subjects that you should never discuss in a trade association meeting

You must **never** discuss commercially sensitive information in meetings organised by trade associations, such as the conditions for a response to a current call for tenders.

WARNING, a trade association must not:

- **Draft** and distribute fixed price lists, not even for recommended prices, or generally organise any concerted action concerning prices.
- **Distribute** recent individualised data, on a periodic basis, which can be exploited directly for anticompetitive purposes.
- **Organise** or favour boycotts of undertakings external to the trade association

What should you do if these subjects are discussed?

- **Protest immediately**
- **Insist** on ending the discussion
- **Leave** the meeting if it is not ended
- **Insist** on **recording** the incident on the minutes

- **Consult** the Legal Department about the incident.

2.5 How to conduct yourself with respect to Plastic Omnium's partners in joint ventures?

"Each person must therefore ensure that relations between the Plastic Omnium group and its partners are strictly limited to the working of the joint venture."

Plastic Omnium has created partnerships with other companies in all of its lines of business, in the form of joint ventures.

The aim of these partnerships is to pool the complementary skills of each for targeted markets, in order to increase the development potential of the Group and its products.

Nevertheless, partners in joint ventures must pay particular attention to avoid coordinating their behaviour in the market (exchanging sensitive information, market sharing, price fixing, etc.).

Such a coordination of behaviour would give rise to risks for the Group and its employees concerning the implementation of anti-competitive agreements.

Each of you must therefore ensure that relations between Plastic Omnium and its partners are strictly limited to the working of the joint venture.

You must therefore always act in a manner that is completely **autonomous** and **independent** of your partners for those activities which do not enter into the activity of the joint ventures.

3.
What to do if you have any doubts?

"In this area, and considering the risks at stake, there is no such thing as a pointless question."

Do not hesitate to ask for the assistance of the Legal Department if you find yourself in a situation which you consider to be contrary to the rules laid down in this Code.

In general, do not hesitate to turn to the Legal Department for any question connected with the content of this Code.

In this matter, and considering the risks at stake, remember that there is no such thing as a pointless question: if you have a doubt, it is certainly because your questions deserve answers. Above all, remember that nobody will criticize you for asking questions, quite the opposite.

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