Demant Group
Policy on Competition Law

2023

Demant

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1. Purpose

Competition laws are intended to stimulate free markets and enhance productivity and innovation and to create value for customers. In Demant, we are committed to conducting our business in full compliance with applicable competition and anti-trust laws. Failure to comply with competition laws could have serious consequences for Demant and its employees, such as damage to our reputation, large fines, exclusion from public contracts, lawsuits and imprisonment.

2. Scope

This Policy follows the principles laid down in EU and global competition laws. If local laws are stricter than EU competition laws, the (higher) compliance level set out by local competition laws must be complied with. If, on the other hand, local laws allow a particular practice, but such practice does not comply with this Policy, this Policy must be complied with unless otherwise approved by Group Legal & Compliance.

This Policy applies to:

- Employees dealing with customers and distributors.
- Employees with possible contact with competitors, e.g. through industry associations or fairs.
- Management in general and especially to such managers and employees who deal with pricing and commercial strategies.

3. Rules to follow

3.1 The core principles of competition law

Competition laws aim to safeguard a competitive market economy and prohibit agreements as well as any other practices that have or can have a restrictive effect on competition in a market. In general terms, competition laws prohibit any actions or agreements, the purpose or effect of which is to prevent, restrict or disrupt competition in a market or to abuse a dominant position.

The purpose of all competition laws is to safeguard a competitive market economy where every company competes on its own merits. To attain the desired level of competition, it is of vital importance that companies make their commercial decisions based on an independent judgement and not in agreement with one or more competitors. Accordingly, competitors must compete without any form of cooperation.

3.2 Anti-competitive agreements and cartels

Competition laws prohibit agreements entered into by two or more companies whose purpose or effect is to restrict competition. In most competition laws, the term agreement is subject to a very wide interpretation and covers formal and informal agreements (including so-called "gentleman's agreements"), concerted practices (e.g. coordination based on a common understanding) as well as the mere exchange of information, whether such agreements are written or contractually binding.

Competition laws are based on a basic distinction between horizontal agreements and vertical agreements. In general, horizontal agreements pose the highest risk of violating competition laws.

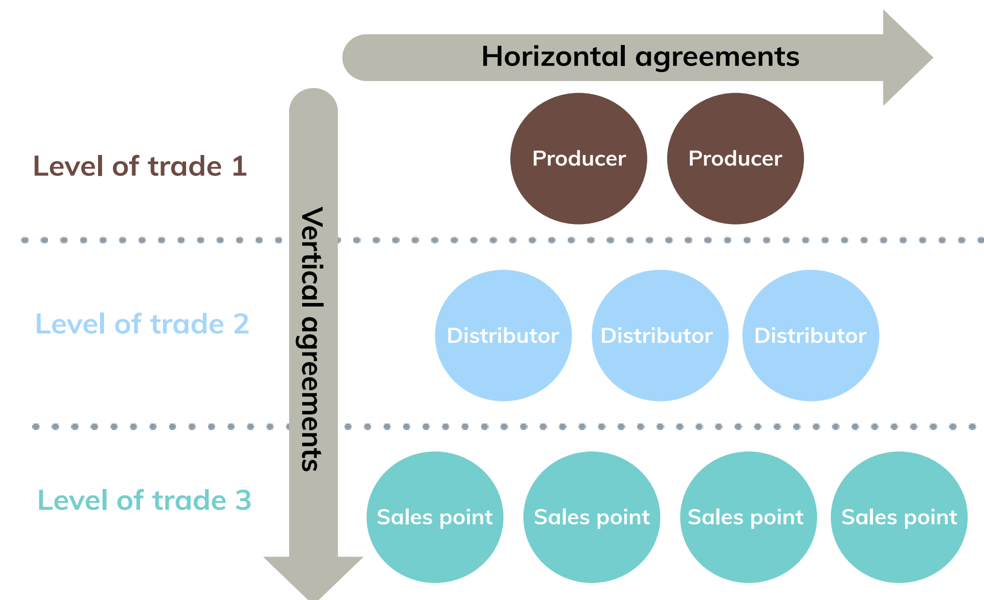
3.2.1 Horizontal agreements

A horizontal agreement is usually prohibited if it concerns:

- Prices.
- Sales, market or customer sharing.
- Limitation of production.
- Boycotts.
- Bid rigging.

Any contract or agreement between Demant companies and competitors regarding these topics will often be presumed to have an anti-competitive purpose and/or effect and may be qualified as a "cartel" offence. Being part of a "cartel" is considered the most serious breach of competition laws, and if found guilty of such breach, Demant would risk being sanctioned with fines of up to 10% of the company's global revenue and other punitive fines. Furthermore, Demant employees would risk being sanctioned with personal fines and even prison in some countries as well as disciplinary sanctions including termination of employment.

Horizontal and vertical agreements



There are specific types of agreements that may be lawfully entered into between Demant and competitors. This is for instance the case with certain R&D, joint venture and manufacturing agreements where the pro-competitive effects are considered to outweigh the anti-competitive effects if the agreements do not impose unreasonable obligations on the parties. Depending on the circumstances supply agreements between competitors (including cross-supply agreements) may also lawfully be entered.

Accordingly, when entering into a horizontal agreement with a competitor, be aware that

- some agreements are not lawful,
- some agreements are subject to certain requirements and
- any contracts or agreements entered into with a competitor are highly sensitive.

The following are examples of horizontal agreements that are **not** lawful:

- **Price fixing**
  It is illegal for a Demant company to discuss or agree on with a competitor 1) the price level at which their products are sold to third parties, 2) any related topics, such as rebates, general terms and conditions of sale, manufacturing and distribution costs, minimum and maximum prices, public price lists and profit margins, 3) to pass on surcharges, or 4) not to discount surcharges or other additional charges.
- **Market sharing and customer sharing**
  It is illegal to agree with a competitor which areas, products or customers the parties will focus on or refrain from competing in.

An example is "pay-for-delay" agreements, which are entered into by an originator, who owns a patent, and a competitor with a view to prolonging the period of exclusivity through compensation to the competitor – typically as part of patent litigation settlement agreements.

- **Sales allocation**
  It is illegal to regulate sales volumes, limit the supply in order to increase prices or stabilise a particular market, or to discuss sales allocation with competitors.
- **Collective boycotts**
  It is illegal to agree with competitors to boycott a particular customer, supplier or competitor.
- **Partnership and collaboration agreements with competitors**
  Special caution must be taken when entering into partnerships and collaboration agreements with competitors, as these can be seen as unlawful bid rigging and/or market sharing. Such agreements may be allowed if properly structured and neither party can deliver all the products required by the customer, e.g. in a tender process.

Information sharing between competitors

What is not allowed
Never share any confidential or sensitive information with competitors, including sales details, revenues, volumes, information on customers, future products or services, marketing initiatives, business opportunities etc. Also refuse to receive any information on these topics.

The fact that such information may be already public knowledge does not make it lawful to discuss it with a competitor.

- **Membership of trade associations and participating in conferences and industry fairs**
  Although it is perfectly legitimate for companies to be members of industry associations and to participate in conferences and industry fairs, competition authorities' decisions show that such activities are sometimes used as a platform for competitors to engage in unlawful discussions, agreements and practices.

  It is generally OK to be a member of a trade association, including participating in industry gatherings of a more informal nature. The information shared should be limited to the following:

  - Non-confidential technical issues relevant to the industry.
  - Information on regulatory changes and compliance.
  - Government policies.
  - Industry lobbying initiatives.
  - Health and safety information as well as environmental matters.

  Do not share information if it is commercially sensitive.

  Demant employees may not discuss or share any kind of prohibited information. Furthermore, the following may not be discussed:

  1. General market conditions, including pricing, industry production capacity, inventories except to the extent necessary to achieve the legitimate objectives of the trade association.
  2. Matters relating to suppliers, distributors or customers.
  3. Market shares.
  4. Industry benchmarking.
  5. Cost control initiatives that a trade association may implement.

  Always use caution, both when providing and receiving information.

- **Participating in industry meetings**
  An agenda must be circulated for review by the members prior to the meeting. Do not engage in commercial discussions. Keep detailed notes. Extra care must also be taken when attending social gatherings, such as dinners etc. Make sure to circulate meeting notes that all participants agree on after each meeting.

3.2.2 Vertical agreements (agreements with customers and suppliers)

What is not allowed
Vertical agreements are generally not seen as problematic but may be deemed unlawful if they contain provisions on e.g. fixed resale prices. All Demant agreements with suppliers and purchasers who are not competitors are considered vertical agreements.

A classic issue may arise when the agreement restricts a purchaser or supplier to do business with competitors, e.g. through restrictive covenants (non-compete clause). Therefore, always seek advice from Group Legal & Compliance on such agreements.

In the following we have listed examples of classic vertical issues that may give rise to concerns under EU competition rules. Less stricter rules may apply outside the EU. Deviations from the Policy on this point is, however, subject to Group Legal & Compliance's approval.

What to be aware of

Interference with resale prices
In most consumer industries, the buying process is straightforward. One person (the customer) identifies the need, compares alternatives, chooses which product to buy, bears the costs and enjoys the full usefulness of the purchase. The customer is easily and uniquely identifiable. However, in the MedTech industry the process may be more complicated. Demant does not always close the sale with the patient/customer. We also deal with prescribers (ENTs), health authorities, pricing and reimbursement authorities, insurance companies, tenders etc.

In markets where Demant has the freedom to determine the price of its products, fixed or minimum resale prices are prohibited, whereas maximum resale prices are allowed.

Territorial or customer restrictions on resale or use
Demant may generally not prohibit its customers/distributors from reselling its products to whomever they wish and may not in any other manner impose restrictions on the use of its products, unless such restrictions are strictly necessary for technical, functional or safety reasons.

It may, however, generally be legal to appoint exclusive distributors in a defined geographical area, in which case it will be legal to prevent other distributors from actively selling products into the exclusive area. Passive sales (when customers approach a seller on their own initiative) are, however, permitted.

Exclusive agreements with suppliers and/or customers
Supply agreements that prevent suppliers from selling to other customers than Demant are generally permitted. However, an exclusive supply agreement may be illegal if for instance Demant and its competitors are dependent on supplies from the supplier.

Share of wallet and minimum purchase obligation: If a customer's minimum purchase obligation is 80% or less, it is generally legal. If a minimum purchase obligation is above 80%, the legality will, among other factors, depend on Demant's market share, the customer and the duration of the agreement. Always involve Group Legal & Compliance if you wish to enter into an agreement with a purchasing obligation above 80%.

As far as agreements between two non-dominant companies are concerned, an exclusive purchase obligation is not likely to cause any problems if the duration of the agreement does not exceed five (5) years.

An exclusive term should be kept to a maximum duration of five (5) years or less and may not be subject to automatic renewal/extension beyond five (5) years unless the customer is allowed to effectively renegotiate or terminate the agreement with a reasonable notice.

Dual distribution
When Demant sells not only through independent distributors but also directly to the same customers as the distributors, Demant competes with the independent distributors, which is why the exchange of certain information with such independent distributors may be problematic.

While it is legal to exchange information of a technical nature in relation to the handling of products as well as production, inventory, stock, sales volume and aggregated customer- and performance-related information, it may be illegal – unless it is deemed strictly necessary – to exchange information about future prices and customer-specific sales data such as sales per customer.

Always seek advice from Group Legal & Compliance before exchanging information with independent and competing distributors about future prices and customer-specific sales data.

3.3 Abuse of dominant position

Dominant position
In those markets where there is a risk that local competition authorities consider Demant to have "dominating" market power, Demant has a special responsibility.

As a rule of thumb and subject to local laws, a company is not presumed dominant when its market share is below 25% in any relevant market and is furthermore unlikely to be dominant with a market share between 25-40%. A company is presumed dominant with a market share between 40-50% if there is additional evidence of dominance. Finally, a company is presumed dominant without additional evidence

of dominance when its market share is above 50%.

Market shares are calculated based on a definition of the relevant product and geographical market and the determination of market shares and potential dominance are therefore often dependent on how narrow the market or sub-market definition is. For any calculations of market shares or if in doubt please consult Group Legal & Compliance.

Abusive practices – what is prohibited?
Having a dominant market position is not prohibited. It is the abusive behaviour of a company in that position that constitutes an infringement under competition law.

Thus, it may be considered an abuse if competitors are prevented, in whole or in part, from profitably entering or remaining in a given market because of a dominant company's behaviour (for instance by setting very low prices or granting loyalty rebates/discounts), and such behaviour is not necessary to respond to a competitive threat. Likewise, it may be considered an abuse if a dominant company imposes unfair trading conditions upon its trading partners (for instance by imposing excessively high prices).

In the following, we have listed examples of classic abuse of dominance under EU competition rules. Less stricter rules may apply outside the EU. Deviations from the Policy on this point is, however, subject to Group Legal & Compliance's approval.

Abusive of Intellectual Property Rights
Intellectual property rights (IPR) constitute an essential element of the MedTech industry. IPRs are important for promoting innovation and developing market competitiveness. While the nature of IPRs is to provide exclusive rights as an incentive and reward for the rights holder, competition laws ensure that IPRs are not artificially extended. Thus, it may under certain circumstances be considered an abuse if a dominant company for instance refuses to grant licenses or demands unreasonably high royalties.

Tying and bundling
Under certain circumstances it may be considered an abuse if a dominant company forces a customer who wants to buy a specific product (the "tying product") to also buy another product (the "tied product") leaving the customer with no choice of buying only the tying product. The same may be the case if the dominant company only sells the products together as a bundle leaving the customers with no choice of buying neither the tying nor the tied product separately.

Under certain circumstances it may also be considered an abuse if a dominant company offers the customer to buy the products separately, but at the same time offers the customer to buy both products with a bundled rebate that makes the choice of buying only the tying product illusionary.

It is, however, perfectly legal to offer the products together with a bundle rebate if the bundling produces savings in production, distribution or transaction costs.

Fidelity/loyalty rebates and discounts
Fidelity/loyalty rebates and discounts offered by a dominant company including retroactive rebates (i.e. where a customer receives a rebate on all its purchases if the purchases over a defined reference period exceed a certain threshold) are generally considered an abuse.

Rebates and discounts offered by a dominant company must be based on objective criteria, primarily genuine cost savings including a rebate based on the volume of purchases which is granted in respect of each individual order and not based on the aggregate orders placed over a given period (volume discount).

Rebates offered by a dominant company must apply equally to all customers.

Refusal to supply
There is generally no absolute obligation to supply a customer unless the dominant company's product/service is indispensable, and the customer or potential customer cannot purchase it elsewhere or produce it itself without extreme difficulty or barrier.

Below-cost pricing ("predatory pricing")
A dominant company faced with a new competitor may be tempted to lower its prices considerably to prevent the new competitor from gaining a foothold on the market for the purpose of subsequently increasing its prices if the new competitor decides to leave the market. Such a behaviour would most likely be considered an abuse.

Unless there are objective justifications, a dominant company is not allowed to price its products/services below cost ("predatory pricing").

As a rule of thumb, the following overall principles apply to a dominant company's pricing:

- Prices above average total cost (fixed and variable costs) are presumed legal unless they amount to excessive pricing.

- Prices between average total cost and average variable cost are illegal if

    - the intention of this price is to eliminate or discipline the competitors, or
    - the price is likely to eliminate or discipline competitors.

- Prices below average variable cost are presumed illegal.

Excessive pricing
Dominant companies may not charge excessively high prices and fees that have no reasonable relation to the economic value of the product/services supplied.

Exclusivity agreements
Exclusive agreements with customers that require the customers to buy all or a significant part of their needs from a dominant company generally has the same effect as loyalty rebates and discounts as they tie the customers to the dominant company. Such agreements are usually considered an abuse. The same applies to agreements with suppliers where a dominant company undertakes to buy solely from one supplier.

Exclusive agreements with customers and suppliers require objective justification.

Discrimination in prices or other trading conditions
If Demant is dominant, extra care must be taken to treat all customers and suppliers in similar situations equally unless objectively justified.

When to seek advice
Whenever there is a risk that Demant is considered dominant in a relevant market, Demant employees must always seek advice from Group Legal & Compliance about practices that can be seen as abusive.

3.4 Anti-competitive concentrations

Merger Control
Please be aware of merger control regulation preventing anti-competitive consequences of mergers and acquisitions. Subject to certain local thresholds approval must be obtained by relevant competition authorities.

3.5 Instructions on communication

Communication – e-mails, meetings and phone calls
Competition authorities will often scrutinise internal and external correspondence when trying to establish whether a company has violated competition laws. Even the fact that a Demant employee has expressed his/her opinion about a certain measure or activity can be deemed unlawful, even though the opinion was based on perfectly lawful considerations.

Based on this Policy, always consider carefully how you communicate on competition law issues. Assessing the legality of a possible measure or activity requires legal expertise and in-depth knowledge of competition laws, and Demant employees must therefore involve Group Legal & Compliance as early as possible, when considering new activities and measures that may give rise to questions regarding compliance with competition laws, rather than making their own assessment.

It is our policy to keep e-mails and data. We do this to fulfil requirements in terms of QMS audits, US discovery etc. However, do keep in mind that a single e-mail can be taken out of context and that jokes etc. are not always perceived the same way by everyone. So please consider how an e-mail you write may be interpreted and be careful to be precise and clear so it cannot be misunderstood.

4. Responsibility

Demant's business area managers and General Managers are responsible for ensuring that those reporting to them are made aware of and understand this Policy. All individual employees are responsible for their own actions and must ensure that they act in accordance with this Policy. Compliance is a condition of employment.

5. Communication and reporting of breaches

If you have any questions regarding this Policy or your local policy, please contact Group Legal & Compliance via individual local or global contact or on Groupcompliance@demant.com.

If you are contacted by authorities, please contact your country and regional management with no delay.

If you experience or expect a breach of the rules laid down in this Policy, please call Demant's Head of Group Compliance (+45 22678301) or our Group General Counsel (+45 51176830) or contact us through our whistleblower hotline.

Whistleblower hotline
Any Demant Group employee who becomes aware of a serious breach of the Code of Conduct or this Policy, can report such breach to our secure and externally hosted hotline available at:

- your local website,
- www.demant.com/about/business-ethics or
- via an app for iPhone or Android.

The reporting may be anonymous, and there will be no retaliation against the employee filing a report.

If in doubt, always ask/seek guidance before acting. Any communication will be treated seriously and will be subject to a considered and objective review.

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