

BABM antitrust clause

Extrait des statuts

0. Préambule

L'association sera une organisation sans but lucratif et non-commerciale. Ses buts et objectifs sont de promouvoir et de défendre les intérêts de ses membres par tous les moyens légaux pouvant de temps à autre s'avérer opportuns. En particulier, l'association ne discutera, ni ne transmettra une quelconque information concernant

- les prix (de vente ou d'achat)
- les conditions de vente (vente ou achat)
- les volumes (achetés ou vendus)
- les coûts
- les inventaires
- les capacités
- les plans d'exploitation
- les plans de production
- les plans d'investissement
- les plans de marketing (et les stratégies publicitaires)
- les parts du marché
- et toute autre information commerciale sensible

L'association ne fera pas de recommandations concrètes ou ne fournira aucune conclusion sous une forme pouvant inciter une ou plusieurs entreprises affiliées à se comporter d'une façon identique ou coordonnée dans le marché. Au début de chaque réunion, un conseiller légal neutre/le président lira la clause antitrust ci-dessus. Au cas où un membre soulèverait un doute concernant l'opportunité d'un quelconque sujet de discussion, un avis légal préalable devra être obtenu avant de procéder à la discussion concernant ce point

Uittreksel uit de statuten

0. Woord Vooraf

De Vereniging is een niet-commerciële organisatie zonder winstoogmerk. Het doel van de Vereniging is het bevorderen en beschermen van de belangen van haar leden met alle wettelijke middelen die in voorkomend geval nuttig worden geacht.

De Vereniging zal met name geen informatie bespreken of uitwisselen over:

- prijzen (koop of verkoop)
- voorwaarden (koop of verkoop)
- hoeveelheden (gekocht of verkocht)
- kosten
- voorraden
- bevoegdheden
- bedrijfsplannen
- productplannen
- investeringsplannen

- marketingplannen (en reclamestrategieën)
- marktaandeelen
- en andere commercieel gevoelige informatie

De Vereniging zal geen concrete aanbevelingen doen of besluiten formuleren op een manier die voor ten minste een aantal van de deelnemende ondernemingen een reden zou kunnen zijn om op een gelijkaardige of wijze de markt te bespelen. Bij het begin van elke vergadering zal een neutrale juridische adviseur/de Voorzitter voormelde antitrust-waarschuwing voorlezen. Ingeval een lid twijfelt aan de gepastheid van een discussiepunt zal juridisch advies worden ingewonnen alvorens dit punt te bespreken.

BABM meeting guidelines

These guidelines are not comprehensive and are designed to serve as a reminder only. It is the responsibility of each member to take its own advice on attendance at BABM meetings and what can and cannot legitimately be discussed. BABM is a membership organization. Many of its members compete with each other. The competition is both horizontal and vertical. This means that every activity of BABM must be measured against national and European competition laws, which prohibit agreements, decisions, and concerted practices that prevent, restrict or distort competition, including monopolies and abuses of dominant market positions. Infringements of competition laws are treated very seriously by the authorities and could result, inter alia, in heavy fines, both for individual members and for the association. Strict compliance with competition law is and always has been the policy of BABM. BABM exercises extreme care to avoid not only infringement, but anything that might raise even a suspicion of possible infringement. An action, seemingly innocent when taken by itself, may be viewed by competition enforcers as part of a pattern of activity, which constitutes a competition infringement. Therefore, participants on BABM committees, working groups or other similar bodies must always remember the purpose of the committee/group is to enhance the ability of all industry members to compete more efficiently and effectively to provide better value to the consumer or end user. However, because BABM's activity almost always involves the cooperation of competitors, great care must be taken to ensure compliance with the competition laws.

This means:

Participation must be voluntary, and failure to participate shall not be used to penalize any company. There shall be no discussion, or sharing, of confidential commercially sensitive information, including in particular price information (relating not only to actual prices charged or paid but also the elements of pricing including, for example, costs, discounts, rebates, promotional activities and terms of trade), allocation of geographic markets, customers or products, boycotts, refusals to deal, or market share.

Historic data on, inter alia, prices, volumes and trading terms may be provided to the Secretariat for the purposes of agreed work topics but at no time shall such data be available to other members or attributable to any individual member. Tests or data collection shall be governed by protocols developed in consultation with and monitored by counsel. Meetings shall be governed by an agenda prepared in advance, and recorded by minutes prepared promptly after the meeting. The recommendations coming out of a BABM committee or working group are just that. Individual companies remain free to make independent, competitive decisions.

Any standards endorsed must be voluntary standards and any business practice recommendation developed must also be voluntary. If any participant believes the group is drifting toward impermissible discussion, the topic shall be tabled until the opinion of counsel can be obtained.