



Competition Law and Trade Association Meetings

BIC's advice to its members attending BIC meetings and/or other BIC events, either in person, or via conference call

Trade associations, such as BIC, can serve a number of valuable pro-competitive functions. For example, they can create necessary or desirable industry standards (e.g. quality and safety standards) and codes of practice. Associations can also represent members' interests regarding legislation, regulation and policy matters affecting the members as well as lobbying relevant governmental and European Union bodies (eg the European Commission).

At the same time, trade associations are self-regulatory and may pose certain competition/anti-trust risks because their membership is usually made up of industry competitors (either actual or potential). By the very nature of the association, discussion and co-operation amongst competitors is likely to occur. This creates the possibility of the trade association being used, directly or indirectly, as a vehicle for anti-competitive or even collusive activity. While the mere opportunity to conspire presented by a trade association meeting is not of itself enough to be of concern, BIC advises its members that care should be taken to ensure that contacts with competitors do not otherwise create a basis for anti-competitive conduct eg a finding of unlawful agreement or illegal information exchanges.

What should I do?

(i) Before attending a BIC meeting?

The meeting agenda will always be sent out in advance. However if you, or a colleague attending in your place, have not received a copy, always request it from BIC ahead of the meeting. If you are concerned about any agenda content, raise the matter directly with your organisation's Legal Department/Team **before you attend the meeting**.

(ii) While at a BIC meeting?

In order to avoid illegal collusion or the appearance of such, BIC advises that discussion of the following topics **MUST** be avoided:

- Current, near-past or imminent pricing, costs, discounts.
- Future business plans.
- Current, near-past or imminent output levels, including stock/W-I-P, inventories, production, sales, volumes or capacity.
- Bidding tactics.
- Specific customers, territories, market shares or product or service lines and offerings.
- Wages, salaries, remuneration paid by participants.
- Specific terms and conditions of sale.
- Credit terms and discounting arrangements.
- The timing and effect of any planned manufacturing or plant shutdowns (or start-ups).
- The timing of any price increase or decrease.



- Any other competitively sensitive topic.

Critically evaluate what the meeting is aiming to achieve. The activity of standard or policy setting, for example, may seem appropriate and innocent enough. However, if that policy or standard has the effect of restricting entry into an industry, deterring innovation, or discriminating against competitors or otherwise inhibiting the ability of persons to compete, this will inevitably give rise to concerns from a competition law standpoint.

Note that the above rules apply equally to both formal and informal meetings, and/or communications at BIC events including seminars, BIC Breakfasts, and training and/or any other events etc. The fact that you might be at a break out session, a lunch, or on a coffee break, does not change the rules.

Ensure that comprehensive minutes are taken that cover all topics discussed at the meeting. Stick to the agenda. Issues not on the agenda should not be discussed. Equally, don't engage in informal discussions or side conversations with other members. Exercise good judgment at all times.

If you are unsure about any aspect of this guidance or anti-competitive issues more generally, please raise them directly with your own organisation's Legal Department/Team. If you do not have a Legal Department, BIC advises that you seek independent legal advice.

What should I do if things go wrong?

Occasionally, you may find yourself in a situation where you come across an issue of concern eg a meeting spontaneously discusses a subject that is anti-competitive, or inappropriate remarks are made that could be construed as being anti-competitive. If you do, note that simply being present at the discussion (even where you do not engage in the discussion yourself) may have serious consequences for your organisation from a competition law standpoint. In these situations, BIC recommends that you take the following action:

- DO NOT engage in the improper conduct.
- Raise the matter directly with the meeting chairperson and ask that your concern/objection is noted in the meeting minutes.
- If inappropriate discussions continue, leave the meeting immediately and have it recorded in the meeting minutes.
- Make a comprehensive note as soon as possible after leaving the meeting, including the time the issue was raised or comment made, what was stated ('word-for-word' or as near as possible), other members comments and your actions.
- Report the matter directly to your organisation's Legal Department for further advice and assistance.
- Let BIC's Executive Director know what has happened so that BIC can take steps to prevent any similar occurrences in the future.

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