

Code of conduct



Core procedures



Code of conduct

IMA-Europe believes it is essential that its activities are at all times carried out in accordance with the applicable law, especially competition law. IMA-Europe affirms that business shall be conducted in an atmosphere of free competition, i.e. on the basis of price and quality and recognises that competition law intends to stimulate free competition. IMA-Europe feels it is important to confirm this by adopting an Antitrust Code of Conduct. This Code of Conduct shall be binding on all members and other participants when participating in all of the association activities. The Code of Conduct aims to provide clear rules to IMA-Europe's members, thus reducing the risk of improper conduct and consequently of imposed fines.

The following rules shall at all times be respected within IMA-Europe:

Competition law rules between competitors

It is strictly prohibited for actual or potential competitors to agree on prices, margins or commercial conditions, allocate clients, markets or sources of supply, limit production, engage in a boycott or bid-rigging, etc. In addition, competitors are prohibited from sharing commercially sensitive information. This means both receiving and providing, even unilaterally, confidential and strategic commercial information. Such exchanges are illegal irrespective of their form (oral or written), the medium used (e-mails, letters, text messages, oral conversations, etc.) and the number of participants (bilateral and multilateral exchanges). More details on the information that can and cannot be shared are provided in the table below. Anticompetitive agreements and information exchanges are sanctioned by antitrust authorities and may lead to the imposition of heavy fines, prison sentences and claims for damages from persons suffering a loss as a result.



Core Procedures

A - Meetings of a body, committee, working group or other form of cooperation within IMA-Europe

1. Meetings of a body, committee, working group or other forms of cooperation within IMA-Europe shall only occur after the members have been invited to the meeting in writing. The notice inviting the members to the meeting shall also include the agenda of the meeting and the list of companies invited.
2. At the beginning of each meeting, an attendance sheet shall be circulated for the participants to sign. The IMA staff member or the external independent lawyer present at the meeting shall recall the existence of the present Code of conduct and the importance of respecting competition law rules during the meeting.
3. Minutes shall be kept of each meeting as referred to in 1., above; these shall be sent to all members of the relevant body, committee, working group or other forms of cooperation. The minutes shall be kept in an organised structure for a period of at least ten years.
4. Consultations and discussions in a body, committee, working group or other form of cooperation within IMA-Europe on the topics on the agenda, where these are related to the

market (i.e. topics that may be of interest for the position and for determining the position of the individual members in competition), shall be limited to the official meeting, of which minutes will be kept.

5. During the consultations as referred to in 4 ., above, it shall not be decided to discuss certain new topics during the meeting subject to the condition that this will not be recorded in the minutes. If such a condition is stipulated, the chairman of the meeting shall refuse to proceed to discuss the topic in question.
6. Each meeting of a body, committee, working group or other forms of cooperation during which market-related topics are discussed shall be attended by at least one staff member of the association or by an external independent lawyer. This staff member will monitor topics that are sensitive from a competition law point of view. If there are doubts about such sensitivities, the topic shall not be discussed until the advice of an expert in the field of competition law is obtained, and this advice is to the effect that the topic may be discussed without any objection or until the limits to be observed during the discussion are clear. If, despite this monitoring an inappropriate topic is discussed, the IMA-Europe staff member and/or the other participants shall ask for the conversation to stop immediately and, if it persists, shall leave the meeting after ensuring that their objection and departure are included in the minutes.





Prohibited topics	Topics that might present a problem	Topics that do not present a problem
<p>The following topics are prohibited and out of bounds during meetings of bodies, committees, working groups or other forms of cooperation within IMA-Europe, particularly as far as information on these topics is exchanged between companies that might be considered as competitors:</p> <ul style="list-style-type: none"> • Sale prices, rates, (intended) price adjustments, recommended prices, discounts, mark-ups and other price-related topics concerning products or services of member companies; • Division/sharing of the market, e.g. by allocating a specific geographical area, specific customers or specific groups of customers to specific members; • Voluntary restriction of production or sales; • Pre-consultations concerning responses to invitations to tender of potential clients; • Exchanging market information by the individual members, i.e. information about production, turnover, sales, investments, divestments, R&D expenses and other information, as far as this is related to specific (categories of) products or services, that may be regarded as commercially sensitive information; • Publishing of the average price or of the price bandwidth within the sector; • Exclusivity for specific members to represent producers and importers; • Boycotting specific suppliers or customers; • Any other topic that could lead to coordination of market behaviour restricting competition; • Pre-consultations between competitors when responding to invitations to tender (in tender procedures with both public and private purchasers); • Agreeing that all competitors add a surcharge to their bid (which would then be used for “compensating” the bidding costs of those companies that would not win the tender). 	<p>The following topics might, under certain circumstances, present a problem from a competition law point of view, but especially in a highly concentrated, oligopolistic market (i.e. a market with only a few players). This means that these topics shall at all times only be discussed within the context of IMA-Europe in proper consultation with an expert in the field of competition law:</p> <ul style="list-style-type: none"> • General terms and conditions of sale and delivery. If these pertain to sensitive competitive parameters (e.g. prices, rates, manner of indexation, on-charging specific costs) or if the use of the conditions is mandatory, the competition authorities may object; • Restrictions on participating in trade fairs. As a general rule, each company should be free to participate in any trade fair it likes and companies should not be asked to boycott any trade fair. Restrictions to this freedom to participate are only allowed under specific conditions. Collective bargaining by the members of IMA-Europe to obtain a better price or other conditions from the trade fair organisation does not constitute a problem under competition law; 	<p>The following topics constitute the core business of most of IMA-Europe’s activities, and discussions and consultations on these topics usually do not present any problem under competition law, provided that the topics mentioned under A. are not touched upon:</p> <ul style="list-style-type: none"> • General cyclical economic data and business climate, as long as discussions on these topics do not relate to any individual company’s behaviour. <p>These discussions focus on the macro level and do not affect any company’s behaviour in the market;</p> <ul style="list-style-type: none"> • Lobbying activities relating to general interests in the sector and concentrating on legislation and other public issues which may affect the sector; • Labour law and social issues. These issues are considered to be irrelevant under competition law; • Legal issues. These issues are by definition of a general nature, as these will affect any company’s business to the same extent; • Standardisation issues, if (i) the standard-setting procedure is transparent and open for participation by any interested party, (ii) there is no obligation to comply with the standard, (iii) access to the standard is provided on fair, reasonable and non-discriminatory terms, and (iv) any discussions within the standard-setting procedure are restricted to technical aspects. Standardisation is aimed at the compatibility of products and at technical progress; this will generally be to the benefit of the end-user; • Safety and health issues. IMA-Europe has an interest in enhancing safety and health concerning the use of the sector’s products; • Environmental issues. IMA-Europe has an interest in enhancing protection of the environment with respect to the use of the sector’s products.

B - Membership procedure / criteria.

The rules for membership of IMA-Europe are transparent, proportionate, non-discriminatory and based on objective standards.

C - Collection of information by IMA-Europe from members.

Collecting and providing aggregated information on the evolution of a sector is one of the main tasks of trade associations. The secretariat of IMA-Europe is allowed, in principle, to collect commercial information about individual companies and to make this information available to the members in an aggregated manner. It must, in any event, be absolutely guaranteed that no information on individual companies can be deducted from this aggregate information. In some EU countries the national competition authorities will only allow such statistics systems if the collected information can be qualified as sufficiently historical, e.g. (depending on the circumstances) presenting data of at least one year before, and/or if the information is made publicly available. IMA-Europe has set up a Data Collection Procedure to ensure that such activities are done in accordance with competition law.

