

Antitrust Compliance Guidelines for ECR-Rus Meetings



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 ECR-Rus meetings and what can and cannot legitimately be discussed.

Many of the companies engaged in ECR-Rus compete with each other. The competition is both horizontal and vertical. This means that every activity of ECR-Rus 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 ECR-Rus. ECR-Rus 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 ECR-Rus committees, project groups or other similar bodies must always remember the purpose of the committee 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 ECR-Rus'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 penalise any company.
- Participants in ECR shall remain free at all times to join other initiatives
- ECR shall be open to all companies within the industry
- 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 an ECR-Rus 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 put on hold until the opinion of counsel can be obtained.