

COMPETITION POLICY: CODE OF CONDUCT

This Code of Conduct is followed at Subsidence Forum meetings.

The Subsidence Forum has determined that its activities shall not contravene free and lawful competition and that EC law will be strictly complied with.

To ensure strict compliance with the UK and EC competition laws, all Subsidence Forum meetings and other activities must be conducted in accordance with this code.

Each meeting will commence with acknowledgement of this Code.

The Subsidence Forum's role is to promote and protect the interests of its members and to provide a forum for industry discussions and development of policies. It will abide by the laws of free and fair competition at all times and will continue to advise and guide members as to rules and conduct under existing competition laws.

In the pursuance of this, members agree not to:

- Fix purchase or selling prices or other trading conditions.
- Limit or control production, markets, technical development or investment.
- Apportion markets or supply sources between themselves.
- Apply different trading conditions to equivalent transactions, thereby placing some parties at a competitive disadvantage.
- Make contracts subject to unrelated conditions.

In addition, members of the Subsidence Forum also agree never at any time to exchange information, discuss, reach tacit or express agreements or understandings on any competitive issue among themselves, including the following:

- Individual costs of production, sales, logistics or distribution.
- Marketing policies and strategies.
- Production and sales figures.
- Prices - including any opinion as to the acceptable level of prices generally prevalent on the market or applied by any competitor.
- Discount and rebates - including any comment on the excessive nature of rebates, or, for example, on the fact that certain competitors would be "destroying the market".
- Projected or actual price increases or reductions - including any opinion as to the desirability of a price increase.
- Actual or potential customers - including any comment on the quality of specific customers or any comment on the marketing policies of any customer.

Through adherence to this Code members will continue to derive benefit from involvement in the Subsidence Forum meetings and discussions and other activities and services of the Forum in the knowledge that this code of conduct is being strictly applied at all time,.

Notes on Competition Policy

As the Subsidence Forum is based in the UK it is specifically subject to the Competition Act 1998 which came into force on 1st March 2000. The UK regulatory authorities have strengthened powers to investigate undertakings believed to be involved in anti-competitive activities and to impose heavy financial penalties where appropriate. The Act is modelled on the European competition law set out in Articles 81 and 82 (formerly Articles 85 and 86) of the EC Treaty.

It is designed to ensure compliance with the Act in particular taking note of the Chapter 1 prohibition, which states that: "Agreement between undertakings, decisions by associations or undertakings or concerted practices which prevent, restrict or distort competition, or are intended to do so, and which may affect trade in the United Kingdom are prohibited."

The Chapter 1 prohibition applies only if the relevant decision, rule, recommendation or other activity has an appreciable effect on competition in the relevant UK market. In the normal course of business, undertakings exchange information on a variety of matters legitimately and with no risk to the competition process. Indeed, competition may be enhanced by the sharing of information, for example, on new technologies or market opportunities. The collection and publication of statistics are also legitimate functions of associations or undertakings, as are benchmarking exercises, as long as they have no appreciable effect on competition, e.g. information cannot be desegregated and individual participants identified.

Codes of Conduct e.g. for dealing with customer complaints or standard terms and conditions used to introduce best practice are less likely to appreciably effect competition if the structure of the market is competitive and if members are not obliged to adopt the codes.

Technical standards negotiated and promulgated through an Association can affect competition by limiting the products or services offered but effects on competition would not always be appreciable e.g. if entry barriers were not significantly raised.

If the combined market share of those in the agreement is less than 25%, this is unlikely to have an appreciable effect. Exceptions to this are agreements which directly or indirectly fix prices; impose minimum resale prices; or are one of a series that can have a cumulative effect.