WORLD NUCLEAR ASSOCIATION

COMPETITION GUIDELINES

April 2014

FOREWORD

This document does not constitute legal advice. Please consult your company's legal department or a lawyer retained by your company for legal advice relating to any specific matters.

The World Nuclear Association (***WNA***) and its members recognise the importance of compliance with all applicable competition (sometimes called antitrust) laws. The WNA has therefore developed this document in order to provide guidance for the secretariat and members of the WNA (***the members***) at its meetings and in any informal discussions before or after such formal meetings.

The document was agreed by the WNA Board of Management at its meeting on 08 April 2014 and subsequently adopted by the WNA secretariat. It shall be reviewed periodically and, where necessary following legal or commercial developments, updated to ensure that the guidance is kept current and comprehensive.

Members may be familiar with competition issues related to their own individual business activities. This document focuses on issues arising particularly in the context of specific trade association activities.

WNA activities should serve to enhance competition and not raise any significant competition law concerns provided some simple rules are observed. This document sets out the main topics to avoid in the context of WNA meetings and informal discussions around those meetings. Proposed WNA or working group (***WG***) initiatives may raise specific competition law issues on which more detailed legal advice may be sought by the secretariat at the time. This document is not intended to replace such advice and is rather intended as a high-level document setting out the sorts of topics that members should refrain from discussing. If members have any concerns regarding a proposed initiative or consider that these guidelines may not have been complied with in a particular instance, they should raise such concerns with the secretariat or their own legal advisors.

The WNA secretariat will ensure that a copy of this document (including subsequent updates) is made available to all persons involved with its activities.

1. Trade or industry associations

Trade or industry associations are usually created to serve a pro-competitive purpose. Since they bring together competitors, however, the main competition risk is that the association meetings may be used as a "cover" for prohibited activities, or otherwise lead to anticompetitive outcomes. Competition laws can also be breached where the anticompetitive effects are an unintended by-product of legitimate action.

Members' sales and marketing teams are likely to be present in many WNA meetings, as these gatherings are often seen as an opportunity to meet with customers to discuss potential commercial opportunities. The presence of sales and marketing people from competing entities leads to potential risks of perceived or actual inappropriate behaviour. There is therefore an even greater need, in such circumstances, for members and their attendees to be aware of the limits of what can be discussed and for any potentially inappropriate discussions to be prevented or stopped at the earliest opportunity.

2. General principles

Competitors should not discuss and in any way agree or otherwise co-ordinate their activities in relation to any of the following:

- prices;
- discounts or terms or conditions of sale of products or services;
- pricing methods;
- profits;
- profit margins;
- production cost data;
- future volume of production;
- market shares;
- sales territories or markets;
- customers; or
- anything else one would not want a competitor to know if wanting to compete against them as vigorously as possible.

They should certainly **not** suggest or hint that each should:

- adhere to specified output levels;
- leave certain customers to supplier A and other customers to supplier B;
- market products in country A in the expectation that others will "leave you alone" in country B; and
- serve certain customers who take certain actions or either agree or refuse to adhere to certain conditions.

3. Guidance

WNA activities include assembling and publishing market-related information and facilitating technical and document standardisation. These activities will be structured so as to avoid any inappropriate sharing of information, by relying on historic, sufficiently aggregated and publicly available current information for its market reports, whilst ensuring that any standardisation process does not constitute an unlawful understanding between members about the extent to which they will use standardised processes or documents. For convenience, some guidance on the WNA's and its WG activities in relation to information gathering and reporting activities and standardisation activities is given below.

3.1. Information exchange

An exchange of information can achieve the same end as an explicit agreement. For example, by exchanging information on their prices, companies A and B can fix the price just as easily as if they had agreed a "straightforward" fixing of the price, since both A and B know what prices not to undercut. It is therefore important to avoid exchanging information which might result in a breach of the competition laws, even if only inadvertently.

Information that could be regarded as competitively sensitive can never be exchanged between competitors. This includes prices or other terms on which firms compete in the market place, or their costs of production or inputs. This applies to any information which the company has not deliberately chosen to make publicly available (through their annual reports for instance), which is not sufficiently aggregated nor truly historic. As a rule of thumb, data is sufficiently aggregated if it cannot be reverse calculated to derive the original, underlying data. If aggregated data is also blended with estimates and publicly available data from various sources, it will typically be particularly difficult to reverse calculate. For the avoidance of doubt, the rule that data should be sufficiently historic applies to detailed, specific data; if the data is sufficiently aggregated it need not also be historic.

Caution is required when the WNA needs to prepare, for example, a briefing paper to a government agency or a market report and members are requested to provide competitively sensitive data or information as part of preparing the brief/report. The following practical steps must be taken:

- before any information is exchanged, ensure all participants are clear as to what kind of information can be exchanged and what it can be used for;

- identify a single point of contact in the WNA staff to act as a collecting point for information from all firms;

- that person must be independent of and not drawn from the WNA membership (this may include personnel seconded to the WNA, provided that the secondee signs a Non-Disclosure Agreement which would prevent the secondee from disclosing

sensitive information during the secondment and for a pre-determined period thereafter);

- that person should ensure that only information in sufficiently historic and/or aggregated and anonymous form is disseminated back (so avoiding a web of bilateral or multilateral exchanges that could accidentally include disaggregated data);

- if data gathering includes meetings or telephone conferences, for each such discussion at a minimum (i) a list of attendees and (ii) an agenda should be circulated in advance. Best practice is that a WNA staff member attends the discussion and that brief minutes be recorded; and

- when drafting the brief (i) the methodology section should reflect the procedure outlined above, (ii) direct sources should be clearly identified and (iii) ambiguous sentences which could raise suspicion regarding the exchange of sensitive information should be avoided.

The brief, report or compilation of data subsequently prepared by the WNA and furnished to its membership must be available to all producers, consumers and processors of uranium and to all interested government entities at a reasonable and non-discriminatory cost.

3.2 Standard form contracts

Setting industry standard terms of business is allowable where it simply reduces transaction costs and increases efficiency in supply and demand chain relationships. For example, a set of standard clauses for contracts, that do not have to be negotiated from scratch in each case, can provide savings on employee time and external counsel fees.

Care must be taken that the process of setting standard terms of business does not result in the elimination of competition concerning previously competitive terms. This includes not just pricing, but also other terms and conditions such as speed of supply and guarantees.

3.3. Setting industry technical standards

Setting industry recommended technical standards is permitted where it increases efficiency in the supply chain.

The main competition concern to look out for to minimise the risk of a breach is excluding competitors from the market as they are not being able to comply with the technical standards set. Accordingly, any standard setting initiatives should comply with five general rules:

- both members and third parties should be allowed to develop alternative standards and to commercialise non-complying products;

- ideally standards should be technologically neutral; where different standards are feasible, the final choice should follow an open discussion across the industry and requires a reasoned explanation (e.g. significant inefficiencies arising from the alternative technology);

- the scope of the agreement should not exceed what is necessary to ensure the purpose of the standardisation (e.g. technical compatibility, certain level of quality and/or security); practices exceeding these ends are likely to amount to collective boycotts against non-complying products;

- third parties should have access to the standards on fair, reasonable and non-discriminatory terms; and

- exchanges of information during the standard setting process must be limited to what is necessary and proportional for the setting of the standard.

4. Lobbying and advocacy

Competition law typically has little relevance to this kind of activity, which occurs essentially "off-market" and does not directly affect price or output. The only substantive danger is associated with exchanges of information. These are likely to be intended to facilitate formulation of a common position or otherwise further the lobbying process, but may in some circumstances have ancillary effects that result in an antitrust violation. The advice in the information exchange section above (Section 3.1) should be observed at all times.

In the course of discussing lobbying activities, it may be easy to stray into discussion about commercial action that could help alleviate in the interim the problem the lobbying is intended to address. Even if no formal agreement is reached, if this discussion leads to firms aligning their competitive conduct, antitrust problems might ensue.

Another risk scenario to be avoided is discussions on how legislative proposals that are the subject of lobbying would be strategically implemented by each company.

5. Organisation of WGs and their meetings

Membership of WGs should be open to any member. Any member should be able to act as an observer at meetings.

Where meetings concern particular product markets, there should ideally be representatives of both consumer and producer companies in attendance, in addition to a WNA staff member.

When organising meetings, the following principles should be observed:

- The agenda of the meeting should contain clear reference to the topics under discussion and be publicly available; and

- The minutes should cover all the relevant discussions and be filed in working group records.

6. What to do if a "dangerous" discussion takes place

If you are present when a “dangerous” discussion takes place, you must immediately object and, if necessary, ask for a recess in order to consult with the chairman of the meeting and appropriate WNA staff. If not satisfied, then speak to your own legal department or compliance officer who will advise whether you can resume the discussion or whether it is more prudent not to discuss such matters. If the discussion does resume before you are comfortable, leave, make sure that your objection and departure are recorded in the minutes of the discussion/meeting and advise the chairman, the appropriate WNA staff member and your company’s legal department or compliance officer.

7. Conclusion

Antitrust compliance is largely a matter of using common sense and exercising due caution. By reading this document and abiding by the "do’s and don’ts” included in the preceding sections, members should be able to steer well clear of any action that might lead to an allegation of antitrust infringement in relation to WG activities. If in doubt, seek legal advice, preferably in advance of any relevant WG meeting where the actions or topics you are concerned about are likely to be discussed.