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Better a good guide to competition law compliance

Imagine...

A company's senior management gets a presentation on competition law compliance. It is another wake-up call. During the presentation, the fines for infringements speak for themselves. They can amount to 10% of global turnover at group level. In 2024 alone, the European Commission imposed more than 3.5 billion EUR in fines for cartels and abuse of a dominant position; national competition authorities a multiple of that.

After the presentation, the CEO contacts Legal to get an explanation of the company's compliance programme. Legal explains that all co-workers sign the company's code of conduct, which includes a number of competition law dos & don'ts, and that commercial teams receive periodic online training on key competition law blinkers.

The CEO wants to strengthen this compliance programme and wants periodic reporting to senior management. How does the company best approach this?

A brief clarification.

Compliance programmes aim to create systematic awareness of competition law compliance in order to reduce the risk of infringements and avoid fines.

A well-founded compliance programme is actively supported by senior management and implements the following steps: (i) identifying risks (**auditing**), (ii) providing targeted tools to reduce the risk of breaches (**training and guiding**), and (iii) **monitoring** compliance.

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A good compliance programme also avoids the **risk of over-compliance**: the fear of committing a competition law infringement should not prevent legitimate cooperation agreements and business practices.

Audit. First of all, the main competition risks should be identified. This will depend on the company's areas of operation. Always helping with the mapping are interviews with senior management, Legal, and with co-workers who have regular contact with competitors, suppliers, distributors and customers, as well as a targeted audit of company documents, including selected contracts and meeting minutes.

Tools: training and guidance. Once the risks have been identified, the right compliance tools need to be chosen. Training with a focus on the company's competitive landscape is almost always an appropriate tool. Trainings can be online but are usually better in person. Here, the 'one size fits all' rule does not apply. To achieve their goal, trainings should be tailored to the target audience, simple and clear, with real-life examples.

Workshops for selected managers and co-workers could also be considered, such as cooperation with competitors, abuse of dominance (for companies with a high market share), information exchange in trade federations, the ins & outs of different distribution systems, or what to do in case of inspections in company premises or private homes by a competition authority. Companies should keep a log of who attended training and when.

Training sessions are accompanied by concrete guidelines as a handhold afterwards for participants. It is also best that new co-workers have immediate access to the tools of the compliance programme.

Monitoring. Finally, compliance needs to be monitored. It is not enough that co-workers understand the dos & don'ts. They must also remember and apply them. A refresher, such as a newsletter, a test or quiz and online training materials, is certainly useful. Monitoring can also take the form of a point of contact where concerns can be reported and can be more far-reaching and take the form of a test inspection ('mock dawn raid').

Concretely.

A well-founded compliance programme cannot completely eliminate the risk of breaches, but it can significantly reduce it. In some countries, a compliance programme can give rise to a reduction in fines if a breach has nevertheless occurred.

- **Tone from the top:** Competition compliance starts with senior management. Their active support is required to achieve compliance.
- **Define the building blocks of your compliance programme:** A programme first identifies risks, mitigates or avoids them through targeted training, workshops and dos & don'ts, and monitors compliance.
- **Start with the basics and then grow:** A company does not need a sophisticated compliance programme from the start. Start with the most important risks and create a good basic programme with practical training and dos & don'ts. Then expand on these building blocks.
- **Appoint a permanent point of contact:** This person is responsible for monitoring the programme, it is the point of contact for compliance questions and reports to senior management. Also engage external lawyers where necessary to ensure confidentiality ('legal professional privilege').

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- **Internal marketing of the programme:** Implementing and embedding compliance in a company takes time. Good communication about its importance are crucial to create long-term support.

Want to know more?

- Competition law compliance is a key area of work for **contrast's** Competition & EU team. More information can be found on our [website](#).
- The Distribution Law Center consists of 27 legal teams across the EEA and the UK with a coordinated compliance approach. More information on the Distribution Law Center can be found [here](#).

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