

BHBIA Competition Law Guidance

The BHBIA is a membership association for organisations and individuals supplying business insights services to the pharmaceutical and healthcare industry.

Competition law limits any of the Association's activities and discussions that might result in agreements that affect, prevent, restrict or distort competition or constitute an abuse of a dominant position.

The BHBIA asks all members and participants in the Association's activities to follow the guidance below.

This guidance is in place to help prevent the BHBIA and its members from behaviours that risk infringement of competition law. Not following this guidance may result in the expulsion of the relevant member(s) from the BHBIA.

If you have any queries about the guidance or its application, please get in touch with admin@bhbia.org.uk

What are the key behaviours to avoid and undertake?

The key behaviours to undertake are:

- Making this guidance clear to all members and promoting a culture of compliance.
- Having a written agenda/programme for all meetings/events/courses and minutes for meetings only.
- Taking legal advice for activities where the BHBIA or its members need clarification on the legal position.

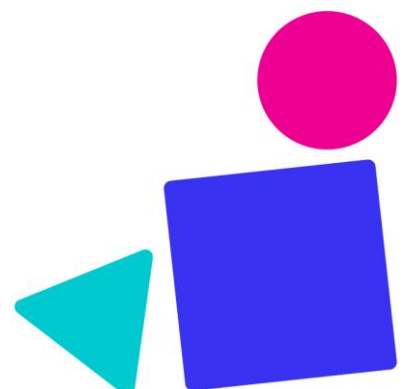
The key behaviours to avoid are:

- The facilitation of meetings/events/courses without steps to prevent the illegitimate discussion of pricing or market behaviour.
- Allowing or tolerating any BHBIA processes, including, but not limited to meetings/events/courses) to become a method by which members get to know sensitive business information or the commercial intent of other members.
- Avoiding arbitrary or unfair exclusion of applicants to join the BHBIA.

Brief Guide to Competition Law

Competition law is enshrined in both domestic and European law. Infringements that solely affect the United Kingdom may be pursued by the Office of Fair Trading ("OFT"). Infringements that have pan-European effects may be pursued by the European Commission (the "Commission").

The OFT and the Commission can issue fines for undertakings that breach competition law. Additionally, individuals and companies affected by breaches of competition law may sue the infringers for damage caused. In extreme cases, officers of companies involved in infringements can be jailed.



There are two main prohibitions in competition law.

- i. Agreements that affect, prevent, restrict or distort competition
- ii. Abuse of a dominant position.

Agreements

An “agreement” does not have to be in writing. It covers any understanding, oral or by conduct, to act in a particular way. The prime example of prohibited conduct is agreeing to fix prices. However, any conduct which has the effect or aim of distorting the market is not permitted.

For members of the BHBIA, the main concern is ensuring that they do not intentionally or inadvertently enter into discussions that influence other members' commercial behaviour. Such behaviour includes the discussion of pricing and other commercial intentions.

What is not prohibited is an open and anonymised general discussion around market trends and forces and discussion about representative action in relation to government action, i.e. lobbying. So, discussing the trends that openly available statistics demonstrate may be legitimate. Discussing pricing or marketing strategies arising as a result may not be.

Abuse of a dominant position

1. Abuse of a dominant position is relevant when a particular party is dominant in a specific market and abuses its position to consolidate or improve its commercial position illegitimately.
2. This may be a concern if a particular member of the BHBIA is or becomes dominant or if the BHBIA becomes dominant.

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