



COMPETITION LAW

It is and has been the policy of the Bathroom Manufacturers Association and its members to comply with all laws applicable to its activities. It is important to emphasise the unswerving commitment of the BMA and its members to comply fully with all applicable European and national laws. This statement is being distributed as a confirmation and reminder of that long-standing commitment and as a general guide to those principles which have particular significance to the BMA's activities and meetings.

This statement is not a summary of the laws applicable to trade association activity. It is intended only to highlight and emphasise the principal competition laws which are relevant to BMA activities. They are stated in general terms, and it is frequently difficult to be certain how those laws may be applied. You are, therefore, encouraged to seek legal guidance where appropriate.

Responsibility for Legal Compliance

Paramount responsibility for compliance with applicable competitive laws (which includes avoidance of even an appearance of improper activities) is yours. Your employer and the BMA depend on your good judgment to avoid all discussions and activities which involve improper subject matter or improper procedures. It is your responsibility to limit your discussions and activities to matters identified on the agenda. The BMA's staff members work conscientiously to avoid subject matter or discussion which may have unintended implications, and the BMA's lawyers provide guidance on these matters. It is important for you to realise, however, that the competitive significance of any particular activity or communication is most readily evident to you, who are directly involved in the industry.

Relevant Laws

The principal relevant laws are the EC Treaty and the Competition Act 1998 both of which are enforced by the Office of Fair Trading at first instance. Penalties for violating the competition laws are severe. Heavy fines and injunctions may be imposed on the BMA and its members as well as liability for damages to third parties affected by the anti-competitive activity.

In general, the competition laws seek to preserve free and open competition in the United Kingdom and in commerce with EC countries. Competitors may not restrain competition among themselves with reference to the price, the quality or the distribution of their products, and they may not agree or act together to restrict the competitive capabilities or opportunities of other competitors, their suppliers or their customers. The following guidelines should be followed but as a general principle, any activity which may have an appreciable effect on competition, may fall foul of the legislation.

Prices

Prices, discounts or other terms of sale must never be discussed at BMA meetings.

Other information and activities

Communication or exchange of information of other kinds may be improper where it serves to reduce or remove uncertainties inherent in the process of competition. The BMA imposes safeguards to prevent inappropriate disclosures. For example, when composite statistical information is compiled and published, the BMA reports are made for proper uses and purposes only, and represent an aggregation of historical data from its members; and individual member's data is not disclosed to other members or to those outside the BMA. Restrictions on advertising also have the potential to restrict competition, as may joint purchasing, selling arrangements.

Meetings

BMA meetings are carefully structured and monitored. Agendas for all meetings are prepared, approved by legal advisers and circulated in advance. They are carefully followed at the meeting. A BMA staff member attends all BMA meetings and is responsible for preparing the minutes of each meeting. The BMA's solicitor attends all membership meetings, Board meetings and other BMA meetings at which sensitive issues are discussed and reviews the minutes of all meetings. There are no informal meetings of the BMA or any of its committees. Discussion of legally sensitive matters must never occur outside of formal meetings, such as at social functions, events or otherwise.

Membership and Participation

Membership of the BMA is open to all companies who meet the requirements of the BMA's constitution. The BMA is constantly seeking to broaden its membership base to include all industry members. BMA meetings are open to all full members. Its publications are available to all members and to non-members for a reasonable charge. Wide membership participation is sought in all BMA Programmes.

For those who do not qualify for full membership of the BMA, affiliate membership status is available.

Public Statements

The BMA wishes to ensure that its public statements such as those to governmental agencies officials made on behalf of the bathroom industry as well as its press releases and public communications are accurate and complete. To this end, it is important that each BMA member ensures that member information and data reported to the BMA is accurate and complete.

To the extent that the member assists in developing the BMA's position for lobbying or other purposes, the member should ensure that the reported statement complies with the BMA's policy for accuracy and completeness.

Improper Appearances

Compliance with this policy involves not only the avoidance of breaches of competition law, but the avoidance of any behaviour which might be so construed. Communications or correspondence must never be conducted in a surreptitious manner or contain language which could be misunderstood. Copies of all BMA-related correspondence should be sent to an appropriate staff member. If any question arises about any BMA activity, you should consult your legal adviser, BMA staff or its legal adviser.

Conclusion

The Bathroom Manufacturers Association will not knowingly be a party to conduct which restricts in any way a member's freedom to make independent decisions in matters that affect competition or otherwise. You have an important responsibility to make sure that the BMA's activities conform to this standard.