



## **EUROPEAN INDUSTRIAL GASES ASSOCIATION ANTITRUST COMPLIANCE PROGRAMME**

### **Mission of EIGA**

The mission of the European Industrial Gases Association AISBL ("EIGA") is to provide a forum for its members where their vast experience in the safe production, handling and use of industrial, medical and special gases can be shared in order to achieve the highest level of safety and environmental care in the handling of these gases.

### **Scope of the Antitrust Compliance Programme**

Both EIGA's Antitrust Compliance Programme and the Meeting Rules apply to all activities under the guidance of EIGA, including, but not limited to, meetings of:

- the Ordinary Meeting and the Annual General Meeting;
- the Board of Directors;
- the EIGA office;
- the Industrial Gases Council (IGC);
- the Medical Gases Council (MGC);
- the Regulatory Environment Council (REC);
- the Safety Advisory Council (SAC);
- the various Working Groups (WG), Ad Hoc Groups (AHG) and Task Forces (TF);
- the National or Regional Safety Meetings; and
- the International Harmonisation Committee (IHC).

## **Antitrust Policy**

EIGA is an international non-profit association whose members are competitors. Meetings of competitors under the guidance of such an association are not objectionable as such. However, EIGA members are not allowed to use the forum provided by EIGA in order to coordinate their commercial activities. Each EIGA member company must exercise its independent business judgment in pricing its products and service, dealing with its customers and suppliers, and choosing the markets in which it will compete. Any activity that could create even the appearance of a restriction or distortion of competition must be strictly avoided.

It is EIGA's undeviating policy to comply strictly with the letter and spirit of EU antitrust law and similar laws in the EU Member States and other countries. Article 81 of the EC Treaty expressly prohibits "agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between the EU Member States and which have as their object or effect the prevention, restriction or distortion of competition, and in particular those which:

- (1) directly or indirectly fix purchase or selling prices or any other trading conditions;
- (2) limit or control production, markets, technical development, or investment;
- (3) share markets or sources of supply;
- (4) apply dissimilar conditions to equivalent transactions with trading parties, thereby placing them at a competitive disadvantage;
- (5) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts."

Any activities of EIGA Members or EIGA's Staff which violate these and other applicable antitrust laws are detrimental to the interests of the Association and its Members, and are unequivocally contrary to EIGA's policy.

### **Discussion Topics**

EU antitrust law, in principle, prohibits the exchange of commercially sensitive and current market information which competitors normally keep secret. It is impossible to provide an exhaustive list of objectionable discussion topics as the competitive significance of many issues is dependent upon the context in which they are raised.

However, it is EIGA's strict policy to follow a prudent rule in relation to antitrust issues. Therefore, no commercial topics outside the scope of EIGA's mission should ever be acted upon, or even considered, at EIGA meetings and gatherings.

EIGA meeting discussions shall be limited to (written) agenda topics and minutes shall be provided.

In particular, EIGA's antitrust policy prohibits any discussions or exchange of information between its Members that might constitute or imply an agreement or concerted practice concerning:

- (1) prices or price factors, including discounts, rebates, and reductions;
- (2) costs and demand structure;
- (3) profits and profit margins;
- (4) output and sales,
- (5) market shares and sales territories;
- (6) investments and marketing plans;

- (7) bidding or refraining from bidding;
- (8) credit conditions or any other terms or conditions of sale;
- (9) selection, rejection, or termination of customers or suppliers.

### **Minutes**

Official minutes are produced for each meeting under the guidance of EIGA's Staff. They are the official record of the Association.

### **Individual Responsibility**

It is the responsibility of each EIGA Member and EIGA's Staff to take individual accountability for compliance with EU law and avoid discussions in any matters outside the scope of EIGA's mission.

Brussels, 26 July 2010