

Competition and Fair Trading Corporate Policy

Why this Policy matters

We are committed to acting professionally, fairly and with the highest legal and ethical standards in all areas of its business. Our Code of Conduct, together with this Policy, reflect our commitment to uphold all relevant laws and regulations including those seeking to protect fair and effective competition in the UK, and in all jurisdictions in which we operate.

Failure to comply with competition law can lead to substantial fines (up to 10% of worldwide turnover), disqualification of directors and extensive reputational damage. The most serious infringements of competition rules can attract criminal liability for individuals. Competition authorities have extensive powers to investigate potential infringements of competition law which are costly and divert management, legal and financial resources.

In addition, we have specific obligations around ensuring fair and effective competition under the Charter and Framework Agreement and Ofcom's Operating Framework. In particular, there are trading and separation requirements to ensure that our commercial activities do not distort the market or gain an unfair competitive advantage due to their relationship with the BBC's public services. Ofcom has enforcement powers, including the ability to fine, against the BBC.

Our interests could also be harmed by the anti-competitive conduct of third parties with whom we work, and agreements that infringe competition laws may be wholly or partially invalid.

Who this Policy applies to

This Policy applies to you if you work for, or represent, the BBC or one of its subsidiaries. This includes, but is not limited to:

- employees, full-time or part-time
- those on a fixed term or temporary contract
- freelancers, contractors or consultants
- volunteers or interns

The essential things you must do or not do

These high-level essential mandatory requirements are the most important for you to understand and follow to meet the Policy objectives.

Collusion or anti-competitive conduct:

1. You must not engage in collusive conduct or other anti-competitive conduct.

Competition laws in the UK, and in most jurisdictions in which we operate, prohibit agreements or practices between two or more businesses that restrict competition. This includes written or oral agreements, or practices which may have developed over time under which businesses:

- fix prices or other trading conditions (by raising, stabilising or even lowering);
- fix wages/rates or other benefits/terms offered to employees or freelancers;
- limit or control production, markets, investments or sales; or
- share markets (i.e. refrain from selling to specific areas or customers).

You must seek advice from Legal before entering into any arrangement or agreements which aim to, or have the effect of, doing any of the above.

Bid rigging:

2. You must not engage in bid rigging when the BBC is contemplating or participating in a tender (e.g. for rights).

Bid rigging is when businesses agree to limit competition in a procurement process and can take several forms including:

- bid rotation – where businesses agree to take it in turns to submit the lowest bid
- bid suppression – where one or more businesses agree not to bid, or to withdraw their bid
- cover pricing – bidders arrange for one or more of them to submit an artificially high bid, distorting the procurer's impression of the competitive price.

If you suspect that bidders participating in a procurement or other process to supply the BBC are engaging in bid rigging, you should seek advice from Legal.

Sharing competitively sensitive information:

3. You must not share competitively sensitive information with competitors and must seek advice from Legal if you receive competitively sensitive information from a competitor.

Competitively sensitive information is information which reduces uncertainty or removes competitive tension between competitors as to current or future conduct. It includes information regarding current or proposed prices, costs (including wages/rates) and strategy (e.g. commissioning, rights priorities/bids, editorial ideas, new products/services).

Information sharing can be by email, online, face-to-face meetings, messaging apps, social media and/or calls (including informal contexts). It is not necessary for both parties to

share information. Simply requesting or receiving Competitively Sensitive Information from competitors can give rise to competition law concerns.

Industry forums, collective negotiations and benchmarking:

4. You must not participate in industry forums, collective negotiations or benchmarking/standard-setting exercises involving the BBC's competitors without first seeking advice from Legal.

Industry forums, collective negotiations and benchmarking/standard-setting exercises often have legitimate and beneficial aims. However, because they can involve collaboration and discussions between competitors, they can raise competition law risks, especially around the exchange of competitively sensitive information (see 3 above). Always obtain advice from Legal on the appropriate parameters and safeguards before participating in such activities.

Abuse of a dominant position:

5. If there is a risk that the BBC's position in a market may be dominant, you must not engage in practices which could be considered an abuse of that position.

Companies with strong market power (a "dominant position") must not exploit that position for example by:

- imposing excessively high or predatorily low prices;
- discriminating between customers without justification;
- only supplying particular products or services if the customer agrees to also purchase other products or services.

If you suspect that a counterparty is abusing its dominant position, you should seek advice from Legal.

Fair Trading obligations:

6. You must observe Ofcom's trading and separation rules in all interactions with the BBC's commercial subsidiaries (BBC Studios and BBC Studioworks).

Ofcom's trading and separation rules (internally 'Fair Trading') are set to ensure the BBC's commercial activities do not, as a result of their relationship with the BBC public service, trading activities or non-service activities, distort the market or create an unfair competitive advantage. These cover:

- **Operational and financial separation between the BBC Public Service and its commercial subsidiaries.** The commercial subsidiaries should not have access to BBC Public Service information that could distort the market or create an unfair competitive advantage. Particular risk areas include advance knowledge on commission strategies, content distribution and viewer research and performance measures. Additionally, the Board's [Information Sharing Protocol](#) has been set to manage this risk and must be complied with at all times.

- **Transfer pricing for the supply of goods, rights and services between the BBC Public Service and commercial subsidiaries, as well as third parties.** Arrangements with BBC commercial subsidiaries (or JVs) must be on arm's length commercial terms. Where goods/rights/services are also provided to the wider market they must be made available on equivalent terms and prices to those offered to commercial subsidiaries (or JVs). Pricing must be based on market prices set through open market process or benchmarking (see above for competition law considerations) or on the basis of cost, including a margin (where the service is not a business support service).
- **The appropriate commercial rates of return for the BBC's commercial activities,** to ensure they are carried out in accordance with market principles.
- **Financial and operational reporting** arrangements to monitor the relationship between the BBC Public Service and its commercial subsidiaries.

If you are unsure whether you can share information with commercial subsidiaries, plan to provide goods/services to commercial subsidiaries and/or third parties, or have other questions regarding Fair Trading, please contact Fair Trading for advice.

Reporting:

7. You must contact Legal if you have any concerns about our own or third parties' compliance with the competition law rules outlined above.

Use contact details for the Competition & Regulatory Legal Team. Label any emails clearly as a "Request for Legal Advice".

8. You must contact the Fair Trading Advice team if you have any concerns about Fair Trading issues.

Training:

9. You must complete and refresh any mandatory training assigned to you or your role in relation to competition law and Fair Trading.