



Collection

COMPLIANCE:

MUST HAVE FOR COMPANIES:

COMPETITION LAW COMPLIANCE

8th AGON WORKING PAPER
12.11.2015

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The competitive law environment is becoming increasingly challenging for businesses. The competition authorities no longer hold back from imposing draconian sanctions and other stipulations upon businesses which fall foul of the law. In order to avoid this, it is very helpful to set-up a solid compliance regime which takes care of antitrust questions.

REDUCE RISKS

Compliance serves to minimize any antitrust risks which present themselves, or eliminate them completely in the best case scenario. To that end, it is absolutely vital for a business to recognize “its own” antitrust risks. Furthermore, risks which are specific to the industry branch and those which are company specific have to be identified. These risks may be dependent upon the location, the number of employees involved, the relevant market in question, the situation with the competitors, upon political considerations (which often impact upon legislation), and upon case law and jurisprudence.

CREATE A STRATEGY

- **Responsibility.** The business management carries the responsibility. The management must set the tone for the rest of the company by “living up” to the compliance culture and by making sure that it is effectively implemented (zero tolerance).
- **Risk analysis and reduction.** The business management needs to analyse the legal risks involved and thereafter determine which measures shall be implemented to reduce the risks.
- **Compliance responsibilities.** The compliance responsibilities are to be distributed in a sensible and resource-efficient way. It must be decided whether the responsibilities of the compliance officer are appointed internally or outsourced externally.

DEFINE COMPLIANCE

- **People.** Employees must be regularly trained. The matter(s) of how to deal with gifts, presents and invitations, as well as conflicts of interest should be subject to discussion preventive and priorily. For employees it might be very useful and calmative to practice the procedure to be followed where suspicion is raised, and how to behave when a real case comes along.
- **Process.** In connection with certain risks, it is appropriate to introduce authorization requirements. Additionally, it may be helpful to adopt reporting obligations. An internal monitoring system which incorporates both regular and spot-checks serves to provide a further important compliance element.
- **Documentation.** All compliance measures need to be documented for the purposes of securing and tracing them, as well as for the purpose of producing them to the authorities in the event of an investigation.

BENEFIT AS A COMPANY

An effective compliance program helps avoid sanctions and cases of liability, serves to strengthen employees in dealing with the numerous antitrust and internal requirements placed upon them, and protects against reputational damage and the imposition of administrative and civil law sanctions.