Guidelines for Representative Attending UTIPULP Meetings

These guidelines are designed to ensure that in organising or attending UTIPULP General Assembly or other industry meetings at which competing companies are present, and in providing or receiving certain commercially sensitive information about the industry, UTIPULP employees, representatives of UTIPULP members and employees of competing companies avoid engaging in or facilitating any discussion or activity which might violate the competition laws of the European Union.

Strict compliance with these rules is especially important; not only will participating companies be responsible for any anti-competitive conduct, but industry associations can also be investigated and held liable.

In a recent case, the European Courts have upheld the fine imposed on a consultancy firm for their part in organising cartel meetings, notwithstanding the fact that the consultancy was not active in the market affected by the cartel and their participation had been merely limited to the role of facilitator. In addition, an independent consultant has been recently subject to criminal prosecution and imprisonment in the UK and the US for his part in co-ordinating a worldwide cartel.

Breach of competition rules are extremely serious offenses and if you have any doubt as to the legitimacy of a discussion, you should object and ask for the discussion to stop until the appropriateness of the topic can be confirmed with legal counsel. All such discussions should also be reported to legal counsel for further direction.

Best Practice Guidance on Trade Association Conduct

- ensure there is a legitimate business purpose for all association functions
- ensure there is a written agenda and minutes for all meetings
- only relevant and necessary people should attend the meeting
- avoid any "off the record" discussions
- membership / participation criteria must be transparent and non-discriminatory
- any agreement on technical standards must be justifiable and non-discriminatory, and should be approved by legal counsel

Prohibited Conduct

Any form of express or tacit collusion amongst competitors aimed at directly or indirectly influencing prices or allocating customers or geographic territories is viewed as an extremely serious offence and will attract hefty fines, potentially in the hundreds of millions of Euros, if uncovered.

The Competition Rules Strictly Prohibit any Discussion, Understanding or Agreement, However Informal, or the Exchange of Information on:

- Recent, current and future individual company prices, price changes.
- Individual pricing policies, price levels, discounts, rebates.
- Individual terms of sales, price differentials, price mark-ups, allowances and credit terms.
- Costs of production or distribution, cost accounting methods and formulas.
- Individual company figures on, or plans as to sources of, supply, production, inventories and sales.
- Any matters relating to individual suppliers or customers (e.g., sales, bids, terms and conditions) including any attempted collective action that might have the effect of excluding suppliers or customers from the market.
- information as to future plans of individual companies concerning technology, investments, or the design, production, distribution or marketing of particular products, including proposed territories or customers (joint collaboration on these issues is, in certain circumstances, allowed but should be structured with legal advice).

What May be Discussed at Meetings

- Non-confidential, technical issues relevant to the industry such as standards, environmental concerns, matters related to corporate social responsibility, health and safety matters and regulatory policy developments;
- Publicly available information on market trends;
- General promotional opportunities (but not a particular company's promotional plans), and
- Industry public relations or lobbying activities.

Guidelines on Information Exchange

UTIPULP acts as a forum for the exchange of industry statistics. The table below explains the difference between a lawful and an unlawful exchange.

PERMITTED	PROHIBITED
⇨ **the exchange of statistical information** that: ☑ is general, historical and non-confidential, or ☑ comprises aggregated data of at least three independent producers (zero or negligible inputs must be excluded when they might cause the disclosure of individual companies' data) ☑ does not enable the identification of individual businesses ☑ is based on individual data processed by UTIPULP staff only and this individual data is not made available to UTIPULP members.	⇨ **the exchange of confidential and company-specific information between competitors**, such as data on: × prices × output × capacity utilisation rates × costs × sales volumes × market shares × marketing plans × inventory

If you have any doubts as to the legality of any data exchange or are asked to provide or discuss something which goes beyond the scope of an agreed exchange, check the situation with legal counsel.

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